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Associative Political Culture *in the* Holy Roman Empire

Upper Germany, 1346-1521

DUNCAN HARDY

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ASSOCIATIVE POLITICAL CULTURE
IN THE HOLY ROMAN EMPIRE

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Upper Germany, 1346–1521

DUNCAN HARDY

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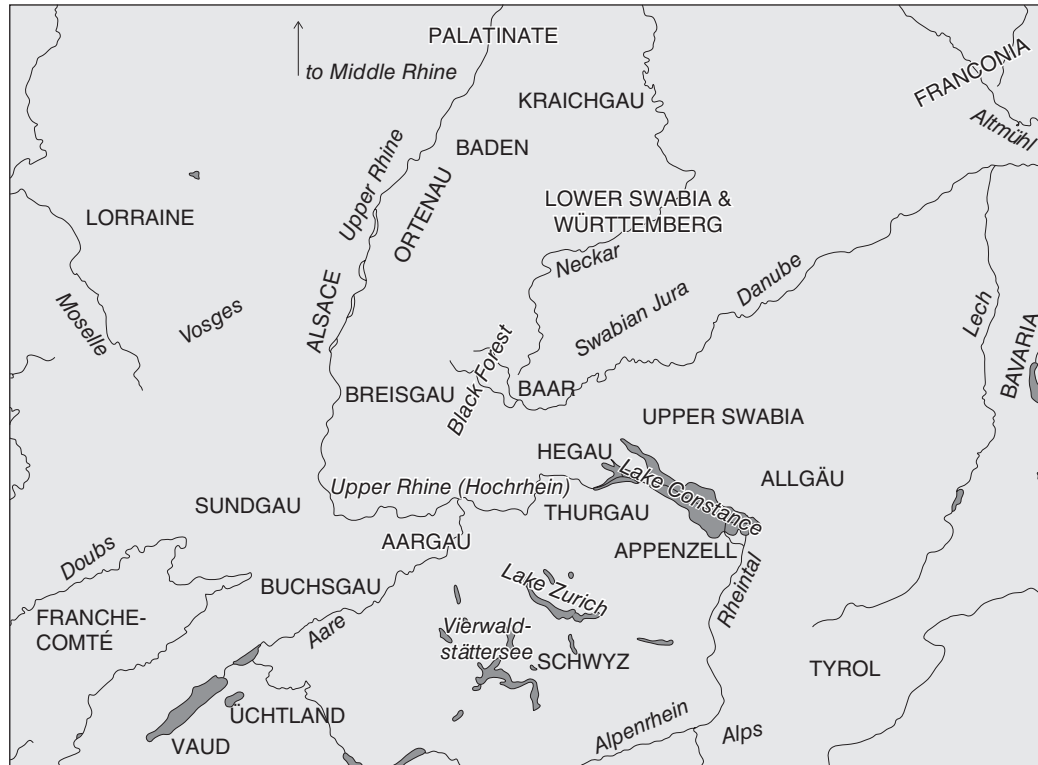
ADBR	Archives Départementales du Bas-Rhin
ADHR	Archives Départementales du Haut-Rhin
AEA	<i>Ämtliche Sammlung der ältern eidgenössischen Abschiede</i> , ed. J. Vogel et al. (8 vols, Zurich, 1856–86)
AMC	Archives Municipales de Colmar
AMH	Archives Municipales de Haguenau
AMM	Archives Municipales de Mulhouse
AMS	Archives Municipales de Sélestat
AUWG	<i>Ausgewählte Urkunden zur württembergischen Geschichte</i> , ed. E. Schneider (Stuttgart, 1911)
AVCUS	Archives de la Ville et de la Communauté Urbaine de Strasbourg
BC	<i>Basler Chroniken</i> , ed. W. Vischer et al. (8 vols, Leipzig/Basel, 1872–1945)
BTBC	‘Bendicht Tschachtlans Berner Chronik’, in <i>Quellen zur Schweizer Geschichte</i> , ed. G. Stuber et al. (25 vols, Basel, 1877–1906), I, 188–298
CDM	<i>Cartulaire de Mulhouse</i> , ed. X. Mossmann (4 vols, Strasbourg, 1883–90)
CDN	<i>Chartrier de Nidernai</i> , ed. C. Heider (2000) < https://www.grandest.fr/wp-content/uploads/2017/08/liste-chartes.pdf >
CKK	<i>Chronik des Konstanzer Konzils 1414–1418 von Ulrich Richental</i> , ed. T.M. Buck (Stuttgart, 2010)
COS	<i>Die Chroniken der oberrheinischen Städte. Straßburg</i> , ed. C. Hegel (2 vols, Leipzig, 1870–1)
CSZ	<i>Chronik der Stadt Zürich. Mit Fortsetzungen</i> , ed. J. Dierauer (Basel, 1900)
DPIP	<i>Volumen rerum Germanicarum novum, sive de pace imperii publica libri V</i> , ed. J.P. Datt ([Stuttgart?], 1698)
FUB	<i>Fürstenbergisches Urkundenbuch</i> , ed. S. Riezler (7 vols, Tübingen, 1877–91)
GGRS	<i>Geschichte des großen rheinischen Städtebundes</i> , ed. K.A. Schaab (2 vols, Mainz, 1843–5)
GHW	<i>Geschichte des Herzogthums Württemberg unter der Regierung der Graven</i> , ed. C.F. Sattler (4 vols, Tübingen, 1767–8)
GLA	Generallandesarchiv Karlsruhe
HLS	<i>Historisches Lexikon der Schweiz</i> < http://www.hls-dhs-dss.ch/ >
HRG	<i>Handwörterbuch zur deutschen Rechtsgeschichte</i> , ed. W. Stammler et al. (5 vols, Berlin, 1964–98)
HSA	Hauptstaatsarchiv Stuttgart

- HZB* *Historia Zaringo-Badensis*, ed. J.D. Schöpflin (7 vols, Karlsruhe, 1763–6)
- KC* *Klingenberger Chronik*, ed. A. Henne (Gotha, 1861)
- LDM* *Lexikon des Mittelalters*, ed. R. Auty et al. (10 vols, Munich/Zurich, 1977–99)
- LUB* *Liechtensteinisches Urkundenbuch*, ed. B. Bilgeri (2 vols, Vaduz, 1948–65)
- MGHCA* *Monumenta Germaniae Historica. Constitutiones et acta publica imperatorum et regum*, ed. L. Weiland et al. (11 vols, Weimar, 1893–2003)
- MGHFI* *Monumenta Germaniae Historica. Fontes iuris Germanici antiquae, Nova series*, ed. K.A. Eckhardt et al. (8 vols, Weimar/Göttingen/Hannover, 1950–2006)
- MHAEB* *Monuments de l'histoire de l'ancien évêché de Bâle*, ed. J. Trouillat (5 vols, Porrentruy, 1852–67)
- PCKAA* *Politische Correspondenz des Kurfürsten Albrecht Achilles*, ed. F. Priebatsch (3 vols, Leipzig, 1894–8)
- QBL* *Quellensammlung der badischen Landesgeschichte*, ed. F.J. Mone (4 vols, Karlsruhe, 1848–67)
- QGFDS* *Quellen zur Geschichte Friedrich's des Siegreichen*, ed. C. Hofmann and K. Menzel (2 vols, Munich, 1862–3)
- RA* *Neue und vollständigere Sammlung der Reichs-Abschiede*, ed. H.C. von Senckenberg and J.J. Schmauß (4 vols, Frankfurt, 1747)
- RCDFIII* *Regesta chronologico-diplomatica Friderici III. Romanorum Imperatoris. (Regis IV.). Auszug aus den . . . Reichsregistraturbüchern vom Jahre 1440–1493*, ed. J. Chmel (2 vols, Vienna, 1859)
- REC* *Regesta episcoporum Constantiensium. Regesten zur Geschichte der Bischöfe von Konstanz*, ed. K.J. Rieder et al. (5 vols, Innsbruck, 1895–1931)
- RI* *Regesta Imperii*, ed. J.F. Böhmer et al. (14 vols, Cologne/Vienna/Innsbruck, 1839–2012) <<http://www.regesta-imperii.de/>>
- RKS* *Monumenta Germaniae Historica. Scriptores. Staatschriften des späteren Mittelalters*, vol. 6: *Reformation Kaiser Siegmunds*, ed. A. Hierseman (Stuttgart, 1964)
- RMBH* *Regesten der Markgrafen von Baden und Hachberg*, ed. R. Fester et al. (4 vols, Innsbruck, 1892–1915)
- RTA* *Deutsche Reichstagsakten. Ältere Reihe*, ed. J. Weizsäcker et al. (22 vols, Gotha etc., 1867–2013)
- RTAJR* *Deutsche Reichstagsakten. Jüngere Reihe. Deutsche Reichstagsakten unter Kaiser Karl V.*, ed. A. Kluckhohn et al. (21 vols, Gotha etc., 1893–2015)
- RTAMR* *Deutsche Reichstagsakten. Mittlere Reihe. Deutsche Reichstagsakten unter Maximilian I.*, ed. H. Angermeier et al. (9 vols, Göttingen, 1972–2014)

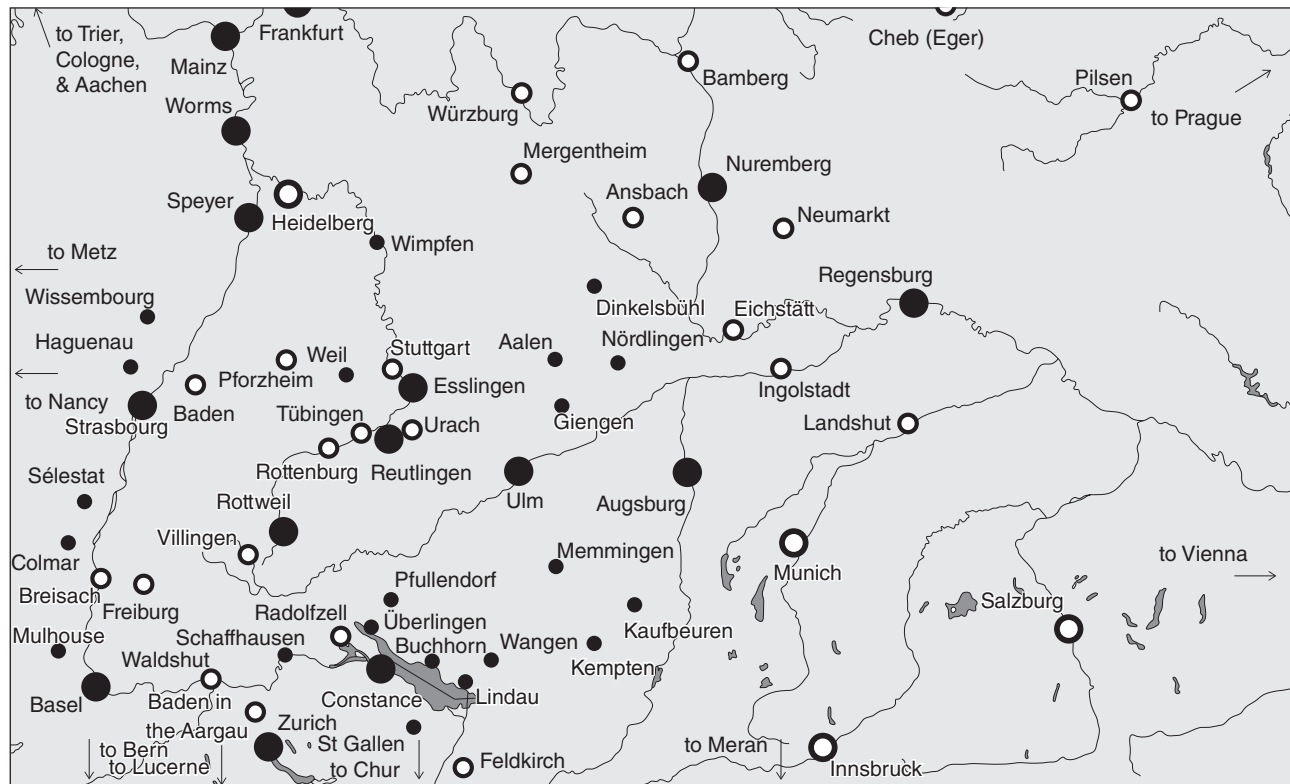
- RTT *Des Heil. Römischen Reichs, Teutscher Nation/ReichsTags Theatrum. wie selbiges/unter Keyser Friedrichs V. allerhöchsten Regierung/von Anno MCCCCXL. bis MCCCCXCIII. gestanden . . .*, ed. J.J. Müller (Jena, 1713)
- RUB *Rappoltsteinisches Urkundenbuch*, ed. K. Albrecht (5 vols, Colmar, 1891–9)
- SAC ‘Straszburgische Archiv-Chronik’, in *Code historique et diplomatique de la ville de Strasbourg. Tome premier. Deuxième Partie* (Strasbourg, 1843), pp. 131–220
- SBE Staatsarchiv des Kantons Bern
- SBL Staatsarchiv des Kantons Basel-Landschaft
- SBS Staatsarchiv des Kantons Basel-Stadt
- SF Stadtarchiv Freiburg im Breisgau
- SLU Staatsarchiv des Kantons Luzern
- SZH Staatsarchiv des Kantons Zürich
- TLA Tiroler Landesarchiv Innsbruck
- TRA *Das Teutsche Reichs-Archiv*, vol. 12: *Des Teutschen Reichs-Archivs Partis Specialis Continuatio III. . . Dritter Absatz*, ed. J.C. Lünig (Leipzig, 1713)
- UAODSB *Die Urkunden und Akten der oberdeutschen Städtebünde vom 13. Jahrhundert bis 1549*, ed. K. Ruser et al. (3 vols, Göttingen, 1979–2005)
- UBASG *Urkundenbuch der Abtei Sanct Gallen*, ed. H. Wartmann et al. (6 vols, Zurich, 1863–1955)
- UBB *Urkundenbuch der Stadt Basel*, ed. R. Wackernagel et al. (11 vols, Basel, 1890–1910)
- UBE *Urkundenbuch der Stadt Esslingen*, ed. A. Diehl (2 vols, Stuttgart, 1899–1905)
- UBF *Urkundenbuch der Stadt Freiburg im Breisgau*, ed. H. Schreiber (2 vols, Freiburg, 1828–9)
- UBR *Urkundenbuch der Stadt Rottweil*, ed. H. Günther (Stuttgart, 1896)
- UBS *Urkundenbuch der Stadt Strassburg*, ed. J. Fritz et al. (7 vols, Strasbourg, 1879–1900)
- UGKF *Urkunden zur Geschichte des Kurfürsten Friedrichs des Ersten von der Pfalz*, ed. C.J. Kremer (Mannheim, 1766)
- UGSB *Urkunden zur Geschichte des schwäbischen Bundes (1488–1533)*, ed. K. Klüpfel (2 vols, Stuttgart, 1846–53)
- USAA *Die Urkunden des Stadtarchivs Aarau*, ed. G. Boner (Aarau, 1942)
- USGÖA *Urkunden zur Schweizer Geschichte aus österreichischen Archiven*, ed. R. Thommen (5 vols, Basel, 1899–1935)
- WLB Württembergische Landesbibliothek Stuttgart

Note on Usage

There are no universal conventions for writing about the pre-modern history of German-speaking Europe in English, so the following decisions about style and usage have been made for the sake of consistency in this book. The adjectival and adverbial forms of 'Holy Roman Empire' are 'imperial' and 'imperially' (the equivalents of the German prefix *Reichs-*). Place-names are given in the majority language of the country or region in which they are now located (so Strasbourg, not Straßburg; Sélestat, not Schlettstadt; Fribourg, not Freiburg im Üchtland). Widely used English forms have been employed for those places that have them (so Constance, not Konstanz; Nuremberg, not Nürnberg; Lucerne, not Luzern; Zurich, not Zürich), but these have been avoided where they are disputed or antiquated (so Bern, not Berne; Basel, not Basle; Regensburg, not Ratisbon). The most well-established versions of the names of the kings and emperors of the Romans in English are used, where these differ from the modern German forms (so Charles IV and V, not Karl; Wenceslas, not Wenzel; Rupert, not Ruprecht; Sigismund, not Sigmund; Frederick III, not Friedrich). However, all other names of German-speakers have been given in their modern German form, or in the form used in the primary source(s) if there is no modern version of the name. Titles are given in their English form, and noble, knightly, or toponymic names preceded by a title consequently employ the English 'of' to remain consistent (Margrave Bernhard I of Baden, Bishop Wilhelm II of Strasbourg, Lord Smassmann I of Rappoltstein, Duke Sigmund of Austria-Tyrol). In the absence of a title, the names remain entirely in German (Smassmann von Rappoltstein, Eglolff von Wartemberg). Where a German, Latin, or French word is used that is not being quoted directly from a source, it is rendered in italics. However, words or phrases that are quoted from a primary source are presented in quotation marks. The abbreviation used for the various types of *Gulden* minted in the Empire is 'fl.' (florins).



Map 1. Significant geographical features and customary regions of the Upper Rhine and Swabia, *c.* 1346–1521



Map 2. Notable urban centres in the southern Holy Roman Empire, c. 1346–1521. Solid circles represent free or imperial cities, while hollow circles represent towns that were subject to an intermediary lord for at least some of this period

Introduction

THE HOLY ROMAN EMPIRE: A HISTORIOGRAPHICAL ENIGMA

The Holy Roman Empire has long presented a challenge to historians who have sought to study and conceptualize it. Forged from the central European fragments of the Carolingian Empire in the tenth to thirteenth centuries, this durable political entity rarely followed the conventional pathways of nation-state formation posited by modern scholars. Every period in the Empire's centuries-long existence, from the Ottonian age to the Napoleonic Wars, has been the subject of fraught interpretations predicated on contested concepts, a situation generated in large part by the highly charged and politicized nature of historical enquiry and debate at various stages in the modern history of German-speaking Europe.¹

This is especially true of the later middle ages, traditionally a chronological no-man's-land caught between the presumed achievements of the 'universal' Hohenstaufen monarchs (c. 1138–1254) and the confessional and geopolitical fractures of the sixteenth century. The relative neglect and condemnation of the fourteenth- to sixteenth-century Empire stem in part from the same simplistic grand narratives that affect the historiography of Europe as a whole in the same period. The later medieval centuries are often perceived as a time of crisis, decline, and excessive violence compared to the preceding 'high middle ages' and the ensuing Reformation and early modernity, or else as a mere 'age of transition' between these better-defined epochs.² The fifteenth century has been described with some justification as 'a historiographical black hole that annihilates data in an interpretive vacuum'.³

The Empire also suffers from more specific scholarly prejudices, not least the enduring view that 'Germany' was beset by unparalleled

¹ See Whaley, *Germany*, i, 1–14.

² These narratives are surveyed in Rexroth, *Geschichte*, pp. 97–100; Watts, *Politics*, pp. 13–23.

³ Lange, *Church Reform*, p. 19.

problems and crises, particularly in the political and religious spheres. These narratives of convulsion relate to the perception that the Empire had a weak monarchy, that it was acutely fragmented and reduced to internecine feuding, and that it was the subject of idealistic but partially unrealized projects for political and ecclesiastical reform.⁴ Above all, they are founded on the assumption of nineteenth- and twentieth-century German historians that their 'nation' followed a unique and problematic path (the *Sonderweg*) towards the nation-statehood that was held to be, in one form or another, the end of historical development. In this scheme, the medieval Empire is thought to have obstructed the coalescence of the state and the German nation.⁵ In the late twentieth century it was still common for the study of the fifteenth-century Empire to be justified as an engagement with 'the German state-problem ["Staatsproblematik"] at the transition between middle ages and modernity'.⁶ In view of this complex and negative historiographical situation, historians have naturally struggled to articulate and explain the history of the Holy Roman Empire in the later medieval period, resulting in a mix of politicized, teleological, and chronologically patchy models and narratives that defy neat synthesis.

This book is an attempt to re-conceptualize the Holy Roman Empire between the mid-fourteenth and early sixteenth centuries. This is the period spanned by the accessions of Charles IV (r. 1346–78), who is traditionally viewed as the last imperial monarch to strive for something approaching 'hegemonic kingship', and Charles V (r. 1519/21–56), whose election, coronation, and first diet coincided with the initial stirrings of the sixteenth-century German Reformations.⁷ As far as possible, the book aims to build this interpretation on a comparative study of the abundant and under-exploited evidence that survives from this period, and to avoid reading this evidence through the prism of the various preconceptions about the later medieval Empire noted above. Clearly, this does not (and cannot) mean a neutral interpretive agenda. While the present work seeks to circumvent or challenge many of the ideas and concerns of the existing scholarship of the German lands and the Empire, it is doubtless shaped, consciously or not, by another set of assumptions and emphases, most of which will inevitably derive from the author's formation in the Anglophone world of medieval and early modern studies. Still, this book aims to show that a perspective that is removed from the

⁴ See e.g. Waley, *Later Medieval Europe*, ch. 13: 'German Disunity and the Origins of the Reformation'.

⁵ See Scales, *Identity*, pp. 1–97 and the German historiography discussed on pp. 4–8.

⁶ Angermeier, *Reichsreform*, p. 7.

⁷ Bauch, 'Hegemoniales Königtum'.

internal discussions and traditions of German-speaking historiography can yield a different model of the later medieval Empire: one that re-envision its political life so as to illuminate its coherence, vitality, and interconnection, which have often been obscured by existing narratives and schemes.

The chapters that follow will seek to reconstruct the political structures and dynamics of the Holy Roman Empire from a broad and representative sample of the surviving evidence. For both historical and pragmatic reasons which are explored in the final section of this Introduction,⁸ they will focus above all on the Upper German localities around the Rhine and Swabia, while relating this regional evidence to Empire-wide developments. The sources underpinning this study include letters, seal-authenticated charters and contracts, the outcomes (*Abschiede*, *Schiedssprüche*) of political and arbitrational meetings (*Tage*), legal and financial records, chronicle accounts, law-books, and manuscript illuminations. We shall see that clear patterns and structures, which constituted a distinctive political culture in the Empire, are discernible in these sources. These patterns and structures included technologies, rituals, institutions, and concepts and configurations of government shared by a range of actors and authorities. Crucially, political elites in the Empire all participated in contractual relationships with one another, often in the form of leagues, alliances, and other treaty-based associations. These associations transcended the putative divisions that underlie many of the negative perceptions of German history in this period, such as morcellated 'territories' and political 'estates'. By creating frameworks for collective activity, associations were a vital means of enabling and regulating aspects of warfare, justice and arbitration, and even lordship and administration. As they participated in associations, German elites used language which exhibited a mentality of 'horizontal' membership of (rather than vertical subjection to) their surrounding political communities, which came to shape how the Holy Roman Empire itself was understood and articulated as a political entity.

Thus, the re-conceptualization of the Empire's political history that follows centres on what we shall call an 'associative political culture' that framed the interactions of monarchs, princes, prelates, nobles, and towns in the fragmented yet interconnected context of the Upper German lands. The underpinnings and workings of this associative political culture are worth exploring, not only to shed light on the history of the Empire in this period, but also because its historiography has not taken them into account. Many of the concepts and narratives which underlie existing scholarship (the 'state', 'transition' from 'medieval' to '(early) modern'

⁸ See section 'The Empire and Upper Germany between Fragmentation and Interconnection, 1346–1521', pp. 14–17.

structures, and so on) over-simplify or misrepresent the patterns and developments in evidence in the primary sources. These categories and frameworks do not allow for the significance—or even the existence—of associations, and the kinds of political structures and dynamics that gave rise to them. To understand how conceptualizing the Empire as a polity shaped by an associative political culture improves upon existing models and narratives, it is first necessary to survey in more detail the historiography of the Empire and its constituent parts.

ENTRENCHED MODELS AND NEW APPROACHES

Some distinct and durable interpretive trends have characterized the existing scholarship of the Holy Roman Empire. To make sense of these trends, it is important to take into account a tendency in German scholarship, derived in part from a strong tradition of legal history, to subsume multiple historical actors and processes within abstracted or reified wholes. To a greater extent than elsewhere, the study of history in German-speaking Europe has been undertaken through the lens of ideal-typical legalistic categories. This emphasis can be traced back to the most famous of the early academic historians in nineteenth-century Germany, Friedrich Carl von Savigny and his pupil Leopold von Ranke, who reified law and placed it at the heart of historical enquiry.⁹ Highly abstract or essentialized concepts (*Begriffe*) have shaped the interpretive agenda in the study of pre-modern history ever since. Otto von Gierke, taking a positive view of the medieval period, sought to explain the political development of the Empire in terms of the Germanic law of communities or collectivities (*Genossenschaftsrecht*).¹⁰ Gierke and his prolific intellectual rival Georg von Below, who saw the medieval Empire as a lengthy diversion from the predestined path towards German nation-statehood,¹¹ both took for granted the idea, borrowed from nineteenth-century German jurisprudence, that medieval polities were fundamentally legal entities (*Rechtsstaaten*)—that is to say, that authority within these polities was enshrined in and regulated by a fixed legal system, and leaders within them could rule legitimately because they were assigned positions of authority within a constitution (*Verfassung*).¹²

⁹ Kroeschell, *Rechtsgeschichte*, i, 254–6.

¹⁰ This thesis is presented in Gierke, *Genossenschaftsrecht*. On Gierke see Chapter 5, section ‘Associations: An Underestimated and Misrepresented Political Framework’.

¹¹ Below, *Verfassungsgeschichte*.

¹² Kroeschell, *Rechtsgeschichte*, i, 14; Oexle, ‘Feudalismus, Verfassung und Politik’.

The study of later medieval history through the legal-historical prism of *Verfassungsgeschichte* survived the upheavals of the mid-twentieth century and found a new lease of life in the influential work of Otto Brunner.¹³ Decrying the application of modern legal abstractions, above all that of the 'institutional state' (*Anstaltsstaat*), to the middle ages, Brunner offered what he thought was a 'social' explanation for the structures of later medieval politics. Focusing primarily on Austria, he depicted a localized *Verfassung* in which politics consisted of two main phenomena. The first was ancestral noble lordship (*Herrschaft*), preserved through rightful feuding and legitimized by a paternalistic relationship with the lower orders. The second was the land-community (*Landesgemeinde*), in which Germanic communal values ensured the equitable treatment of those who occupied their rightful place and the estates (*Landstände*) represented the interests of the locality. In fact, law remained at the heart of this new *Verfassungsgeschichte*. Brunner argued that both noble lordship and the land-community operated according to the principles of local customary law (*Landrecht*), which was founded on the sense of reciprocal obligation and justice (*Treue* and *Recht*) inherent in Germanic kin-based groups (*Sippen* and *Gefolgschaften*) since the early middle ages.¹⁴ The Brunnerian version of the medieval *Verfassung* fast became a blueprint for medievalists writing in the latter half of the twentieth century. Its framework for regional history (*Landesgeschichte*) has been applied to many later medieval localities, while its insights into the nature and distribution of power have shaped thinking about the Empire as a whole.¹⁵

Though Brunner has not been without his critics—not least because of the political and intellectual climate of the 1930s and '40s in which his ideas were first formulated—his work inaugurated a tacit post-war consensus in the study of the later medieval German lands. Whether at the level of a region or sub-polity or at that of the entire Holy Roman Empire, this period has been studied in terms of the legal constitution of political entities, even if this approach has been coupled with other methodologies, such as prosopography and discourse analysis. In most historiography the *Verfassung* serves as a master category within which other social, political, and cultural phenomena are arranged and interpreted.¹⁶ One consequence of this approach is that the nineteenth-century

¹³ Brunner's *magnum opus* is *Land und Herrschaft*. See also Brunner, *Verfassungs- und Sozialgeschichte*.

¹⁴ Brunner, *Land und Herrschaft*, pp. 165–239.

¹⁵ A manifesto for this approach by one of Brunner's admiring contemporaries is Schlesinger, 'Verfassungsgeschichte und Landesgeschichte'.

¹⁶ An early—and mostly unheeded—critique of this framework is offered by Graus, 'Verfassungsgeschichte'.

tendency to compartmentalize historical processes within discrete and reified categories has endured. In seeking to identify and characterize *Verfassungen*, historians of the late medieval German lands have organized and examined historical data within a variety of bounded legal-political concepts, including 'territories', 'estates', and factions within a 'dualistic' imperial constitution, in ways explored below. By contrast, the argument of this book is that political life in the Empire, particularly as manifested in associations and the ideas and behaviours that gave rise to them, was much more integrated across putative boundaries than the dominant categories of post-Brunnerian *Verfassungsgeschichte* would allow.

Two principal models and narratives of the Empire have developed since the emergence of this Brunnerian consensus, and they continue to influence most historiography of German-speaking Europe today. The first conceives of the Empire as a patchwork of atomized constitutional 'territories'. Michel Parisse, summarizing this view unquestioningly, puts it like this: 'mapping the German Empire [*sic*] at the end of the middle ages has become an impossible task... imperial Europe has become an illegible mosaic, a puzzle of differently sized pieces'.¹⁷ Partly this desire to read the growth of 'territories' into the later medieval evidence stems from a traditional German interest in local history and regional studies, which was reinvigorated in the immediate post-war decades, as the study of the 'German nation' as a whole temporarily became taboo.¹⁸ It also derives from the resumption of interest in the concept of the 'state' in German academic circles from the 1970s onwards, in the context of an increasingly comparative European historiography which took (and often still takes) the 'genesis of the modern state' to be a central and self-evident feature of the late medieval and early modern periods.¹⁹ These 'territories', especially those ruled by princes, are viewed as the locus of state formation in the Empire. In the words of Karl-Friedrich Krieger, 'the Romano-German Empire did not find the path to modern statehood... [and] that which was denied the Empire as a whole was substantially accomplished in the territories, so that in Germany it was rather the territorial lordships which laid the foundations of the modern institutional state'.²⁰ The concepts of territorial statehood and lordship (*Territorialstaatlichkeit*, *Landesherrschaft*) have been applied to most regions of the Empire, often with the explicit goal of

¹⁷ Parisse, *Allemagne et Empire*, pp. 216–17.

¹⁸ See Gerlich, *Geschichtliche Landeskunde*.

¹⁹ The state-oriented narratives originated above all in France, Belgium, and the Netherlands. See e.g. Guenée, *États*; Blockmans et al., *Origins of the Modern State*.

²⁰ Krieger, *Reichsreform*, p. 1.

understanding their *Verfassungen*.²¹ The teleology of ‘territorialization’, culminating in the attainment by the imperial princes of so-called *territoria clausa* endowed with sovereignty (*Landeshoheit*) in the 1648 Peace of Westphalia, still underpins much of this work.²²

The second model through which the Holy Roman Empire is conceptualized in current scholarship pertains to the polity in its entirety. It is presented as an ‘imperial constitution’ (*Reichsverfassung*), a legal—and, latterly, social—unit within which the various imperial powers were arranged schematically. The term ‘*Reichsverfassung*’ has existed since at least the eighteenth century, but in the context of the later middle ages it has become linked to a highly influential interpretation developed by the prolific Peter Moraw and his students between the 1970s and the turn of the twenty-first century. Employing sociological and prosopographical methods, Moraw reaffirmed the centrality of the monarchy to the Empire, a perspective buttressed by contemporaneous legal-historical research.²³ He articulated these innovative findings within the framework of the old concepts of ‘statehood’, ‘territoriality’, and the ‘imperial constitution’, situating the components and dynamics of the Empire in relation to the monarchy in order to characterize a complex and evolving ‘political system’.²⁴

Moraw argued that in the thirteenth and fourteenth centuries the German core of the Empire consisted of co-existing entities with few obligations towards the crown or one another. This was the so-called *offene Verfassung*. By the fifteenth century, the trauma of external invasions and endless internal problems of law and order drew the political elites into closer and more intensive interaction with the crown and one another, in a consolidatory shift that Moraw called *gestaltete Verdichtung*.²⁵ A corollary to this *Verdichtung* was the growth of a sense of political community among those involved in Empire-wide discussions, usually in the context of imperial diets, such that the elites came to regard themselves as ‘estates’ or *Reichsstände* whose sphere of action was at the heart of imperial politics. Here, they formed one of the poles of the dualistic late medieval *Reichsverfassung*—the other pole being the dynasticized

²¹ E.g. Patze, *Territorialstaat*; Bader, *Territorialstaatliche Entwicklung*. The concepts and narratives of *Territorialstaatlichkeit* and *Landesherrschaft* are considered in Chapter 4, pp. 70–1.

²² E.g. Boockmann and Dormeier, *Reichsreform*, pp. 155–6; Herbers and Neuhaus, *Reich*, p. 170.

²³ Moraw, ‘Verwaltung’, pp. 22–65, *Verfassung*, ‘Königtum’, ‘Funktion’. See also Krieger, *Lehnshoheit*; Schubert, *König und Reich*.

²⁴ See esp. Moraw, ‘Landesgeschichte und Reichsgeschichte’, ‘Machtgefüge’, ‘Zur staatlichen-organisatorischen Integration’; Wefers, *Sigismund*.

²⁵ See esp. Moraw, *Verfassung*, pp. 21–2.

monarchy. According to this narrative, the increasingly powerful ‘territorial princes’ were the dominant force within the imperial estates that now opposed the monarchy, while other elites (towns, noblemen, prelates) were marginalized.²⁶ Furthermore, there is a latent tendency in this literature and elsewhere to depict these socio-political ‘estates’—the nobility (*Adel*), the towns (*Städte*), the princes (*Fürsten*), and so on—as ontologically different groups with inherently opposed aims and ways of life.²⁷ A recent surge in interest in the ‘diplomacy’ and ‘external relations’ of these entities and groups within and beyond the Empire has uncovered new and potentially challenging evidence of their mutual dependence and interconnection, but this new focus has not yet prompted a widespread re-examination of the disjunctive imperial system posited by Moraw and his disciples.²⁸ The Moravian paradigm of the estate-based and dualistic ‘imperial constitution’ is widely regarded today—sometimes with enthusiasm, sometimes by default—as the orthodox scholarly interpretation of the Holy Roman Empire’s political development in the fourteenth to sixteenth centuries.²⁹

Both of these models and narratives capture something of the structures of the late medieval and early modern Empire and the long-term changes it experienced in the course of these periods, and this book will draw on many of the findings of historians who have deployed them. However, it will also aim to rectify some of their weaknesses by seeking to apprehend the patterns and dynamics detectable in the primary sources, rather than through a reading of the evidence that places it a priori within ‘territorial’ and ‘constitutional’ or ‘state’-oriented categories. What both of these models suggest, explicitly or implicitly, is that politics in the Holy Roman Empire was discrete and compartmentalized. The emphasis is on ostensibly separate units, be they the individual ‘territories’ or ‘states’, different socio-political estates, or the abstracted constitution or system of the Empire itself. This situation is well summarized by Christian Heinemeyer in his recent overview of this historiography: ‘The history of political activity, political structures, and the constitution of the Empire and its members... has so far been studied predominantly at

²⁶ See e.g. Herbers and Neuhaus, *Reich*, p. 192.

²⁷ E.g. Boockmann and Dormeier, *Reichsreform*, pp. 140–69. The use of reifying concepts like *das Städtewesen*—‘town-ness’—contributes to this disjunctive categorization. See e.g. Janssen and Wensky, *Mitteleuropäisches Städtewesen*.

²⁸ E.g. Jörg and Jucker, *Außenpolitik*. On the interconnective implications of this focus, and the ongoing dominance of Moravian constitutional terminology, see Heinemeyer, *Zwischen Reich und Region*, pp. 25–51.

²⁹ See e.g. Fuchs, Heinig, and Schwarz, *Reich*, p. vii; Diestelkamp, *Königsgerichtsbarkeit*; Reinle, *Der Forschungseinfluss Peter Moraws*.

the levels of regional history ["Landesgeschichte"], imperial history ["Reichsgeschichte"], or in the context of external relations between units, either separately from one another, or from the perspective of only one of these levels.³⁰ In order to reinforce these conceptual delineations of different spheres of political activity in the late medieval Empire, the historiography has also tended to downplay countervailing evidence of connections across boundaries between regions, territories, factions, and estates. In particular, the numerous and varied associations in the German lands—alliances, leagues, and other contractual relationships, often between supposedly disparate actors—have mostly been dismissed by historians of the Empire as anomalous, short-lived, ineffective, and unrepresentative of prevailing political configurations.³¹

How, then, can the Holy Roman Empire be re-conceptualized so as to break down the unhelpful boundaries between these putative levels and spheres of politics and government? This book will seek to approach the evidence through a more holistic perspective: that of 'political culture'. This concept has been applied fruitfully to many other medieval and early modern contexts in recent decades.³² These include earlier and later periods of the Empire's own history: Gerd Althoff and Barbara Stollberg-Rilinger have drawn attention to the importance of shared norms of behaviour and symbolic and ritual interactions between elites as constituents of the polity's loose and constantly negotiated political framework in, respectively, the Ottonian and Salian era and the seventeenth and eighteenth centuries.³³

The integrative potential of political culture lies in its placement of the political within what Christine Carpenter has called 'the "complex whole" of social organisation'.³⁴ Concretely, this will entail examining the ways in which Upper German politics and government were configured by the social ties and common ritual, discursive, and judicial forms of interaction of the varied individuals and groups who wielded political authority of some kind in the Holy Roman Empire. Through this comparative and connective lens, we shall see that—contrary to prevailing disjunctive perspectives in the historiography—there are many indications in the sources that political elites were highly interconnected across both geographical and socio-political space. The evidence does not suggest that any

³⁰ Heinemeyer, *Zwischen Reich und Region*, p. 50.

³¹ See Chapter 5, pp. 94–5.

³² See e.g. Powell, 'After "After McFarlane"', p. 13; Wolfart, *Political Culture*. The origins and utility of this term, as used in Anglophone scholarship, are considered in Carpenter, 'Political Culture', pp. 1–20.

³³ Althoff, *Spielregeln*; Stollberg-Rilinger, 'Kulturgeschichte des Politischen', *Symbolic Language*.

³⁴ Carpenter, 'Political Culture', p. 2.

group or entity was neatly sealed off from any other. On the contrary, they were constantly interacting, which continually reinforced conformity to certain mutually intelligible forms and practices. Furthermore, to address the theoretical side of 'political culture',³⁵ all kinds of actors in the Empire, regardless of their strength or status, seem to have shared a core repertoire of concepts and ideologies of power. We shall see that the kings and emperors of the Romans were central to this political *imaginaire*, as recent scholarship has rightly asserted, but a range of other shared conventions (revolving around, for instance, notions of honour, justice, and rights to titles, properties, and jurisdictions) also played a vital role.

These common features, which are examined in Part I of this book, shaped many aspects of political life, enabling and perpetuating the entanglement of princes, clerics, townspeople, and nobles in one another's affairs within tenurial, financial, or dynastic networks. At the same time, these elite actors generally enjoyed substantial formal autonomy from one another, such that their interactions cannot easily be viewed as the products of strict hierarchies between rulers and subjects or centralizing processes led by unitary administrations. In order to formalize and regulate these quasi-horizontal connections, in a context which lacked an overarching governmental framework capable of doing so in their place, the imperial elites regularly entered into contractual relationships, enshrined in bi- or multilateral treaties containing binding stipulations, especially with regard to military and judicial matters. In the vernacular of the fourteenth to sixteenth centuries, these relationships had a variety of labels, usually related to the words *Bund* or *Bündnis* and *Einung* or *Vereinung* (all terms that could be rendered as 'league', 'alliance', or 'union'), but also *Gesellschaft*, *Vertrag*, *Verständnis*, or *Verschreibung* ('society', 'treaty', 'understanding', 'obligation'), among others.³⁶ As we have already indicated, in the absence of an agreed English vocabulary to refer to such multilateral, treaty-based frameworks, they will be referred to here collectively as 'associations', and they are explored in detail in Part II.

The contention of this book is that the prevalence and significance of associations in Upper Germany have been vastly underestimated. Swabia and the Upper Rhine—some of the most densely settled regions of the German lands—saw the proliferation of leagues, alliances, and other forms of association in the period between the reigns of Charles IV and Charles V. Yet associations were not limited to these regions, and as such this book aspires to be more than just a large regional case study. Emerging from the shared and interconnected configurations of power in the Holy Roman

³⁵ As discussed in, e.g., Watts, *Politics*, pp. 381–93.

³⁶ This terminology is discussed in Chapters 5 and 8.

Empire's core regions, associations in turn conditioned and lent coherence to its political structures and conventions—in other words, between the fourteenth and sixteenth centuries the Empire was shaped and constituted by an 'associative political culture'. This concept is substantiated in Part III, where it is applied to four episodes or phases in the history of Upper Germany to elucidate the shape of politics and sequences of events at important conjunctures. Before we can proceed to consider this associative political culture and the underlying structures and dynamics which gave rise to it, however, the broad context of the Holy Roman Empire as a political entity, and the contours of its Upper German heartlands, require some examination.

THE EMPIRE AND UPPER GERMANY BETWEEN FRAGMENTATION AND INTERCONNECTION, 1346–1521

Regardless of how it is conceptualized, the fourteenth- to sixteenth-century Holy Roman Empire had certain basic features which are undisputed. First and foremost, the Empire was both a monarchical kingdom and a community of elites; it was, in other words, a medieval realm which matched Susan Reynolds's broad and useful definition of a 'regnal' polity.³⁷ There were, however, important differences between the monarchical government of the Empire and the experience of (gradual and intermittent) centralization around a royal dynasty, which is generally agreed to have occurred in England, France, and Castile, among other later medieval kingdoms. For a start, the monarchs of the Empire theoretically had universal authority. As learned German clerics and political thinkers proudly asserted, the rank of the king or emperor of the Romans exceeded that of any other title in Christendom, a claim rooted in the Carolingian and Ottonian *translatio imperii*.³⁸ Moreover, the office of the king of the Romans (*rex Romanorum*, *römischer König*) was elective, while the imperial title (*imperator*, *Kaiser*) was granted to an incumbent king if he was crowned by the pope. In the late thirteenth and early fourteenth centuries it became established custom for the 'electors' (*Kurfürsten*)—the archbishops of Mainz, Cologne, and Trier, the margrave of Brandenburg, the duke of Saxony, the Count Palatine, and sometimes also the king of Bohemia—to choose a new monarch on the death of the previous one. There is little doubt that from the fourteenth century onwards the kings

³⁷ Reynolds, *Kingdoms and Communities*, p. 254.

³⁸ See Scales, *Identity*, pp. 204–94.

and emperors, who stemmed from various central European dynasties, were poorly equipped in material terms to govern the vast areas within the Empire, whence the constant agonizing in German historiography about the Empire's weaknesses and peculiarities, and its alleged failure to coalesce into a state. Compared in absolute terms to their western European counterparts, and especially considering the size of the areas under their notional rule, the kings and emperors of the Romans were under-resourced, and their administration was small, basic, and peripatetic.³⁹ When the king or emperor was not personally present in a region he had little direct connection to day-to-day events in political life, even in the Upper German zones identified as 'near-to-the king' (*königsnah*) by Peter Moraw, which are the primary focus of this book.⁴⁰

At the same time, as post-war scholarship has reaffirmed, the monarchy was the conceptual centre and pinnacle of the imperial polity, from which the legitimacy of all other political actors—even the most powerful princes—derived.⁴¹ It was the king or emperor and his representatives who received homage from princes, noblemen, and cities, granting privileges and confirmations of fiefs, revenues, and jurisdictions in return, sometimes through elaborate ceremonies. The imperial chancery was in constant demand from all the princely, noble, episcopal, monastic, urban, and communal actors in the localities, and it was usually the local powers themselves who paid to have their sealed privilege-charters (*Siegelurkunden*) issued.⁴² Periodically the kings and emperors issued legislative ordinances in consultation with other powers at assemblies or diets (*königliche, kaiserliche, or gemeine Tage*, which became known as *Reichstage*—imperial diets—by the 1490s).⁴³ The 'Golden Bull' of 1356, the 1442 'Royal Reformation of Frankfurt', and the 1471 'Emperor's Peace of Regensburg' are three prominent examples that we shall encounter in various contexts.⁴⁴ Some indication of the ideological and symbolic importance of the monarchy for status holders in the localities is given by the 'Saxon Mirror' (*Sachsenspiegel*) and the 'Swabian Mirror' (*Schwabenspiegel*), the two most widely used legal compilations in the German lands between the thirteenth and sixteenth centuries.⁴⁵ Both law-books presented the monarch

³⁹ Moraw, 'Verwaltung', pp. 26–8.

⁴⁰ Ibid., p. 24.

⁴¹ Krieger, *Reichsreform*, p. 76, *Lehnshoheit*, *passim*.

⁴² See e.g. the case study of Wenceslas's chancery in Hlaváček, *Kanzleiwesen*.

⁴³ Annas, *Reichsversammlungen*, i, *passim*.

⁴⁴ *MGHCA*, xi, 582–740; *RTA*, xvi.2, 401–7, xxii, 837–73.

⁴⁵ The most recent published version of the *Sachsenspiegel*, based on a fourteenth-century manuscript from Heidelberg with a modern German translation, is *Sachsenspiegel*, ed. Munzel-Everling. The edition used here is *MGHFI*, i.1–i.2. The latest published edition of the *Schwabenspiegel*, translated into modern German from a fifteenth-century manuscript, is *Schwabenspiegel*, ed. Derschka. The edition used here is *MGHFI*, iv.1–2.

as the fount of secular justice in the spheres of customary law (*Landrecht*) and feudal law (*Lehenrecht*), even while acknowledging that the tools for its implementation lay in the hands of local powers.⁴⁶ They also posited a socio-political hierarchy based on who could grant fiefs to whom, the so-called *Heerschildordnung*, with the king or emperor at its head.⁴⁷ This conceptual centrality could not compensate for the insufficiency of the resources available to the kings and emperors of the fourteenth and fifteenth centuries, but shrewd and energetic monarchs could achieve a surprising amount by capitalizing on the prestige of their office, and the connections and patronage that it afforded.⁴⁸ We shall see again and again that the political elites of the Upper German lands bought enthusiastically into the idea of the Holy Roman Empire and its peace- and justice-enforcing functions, and this involved vocally identifying any remnants of an imperial legal-political order in the world they inhabited. Looking to the kings and emperors for symbolic leadership was a natural part of this process, even though the monarchs had little direct involvement in the politics of most regions during many long phases in the period between 1346 and 1521.

The later medieval law-books also open onto the myriad ties and interactions of the powers below the crown, within the framework of what the jurists who compiled the mirrors freely admitted were varied and malleable customs.⁴⁹ While these compilations represent the theoretical *Heerschildordnung* as a 'vertical' socio-political order restricted to the nobility, they also enumerate a variety of 'horizontal' legal and judicial practices affecting freemen and women, which in the fourteenth, fifteenth, and sixteenth centuries included a variety of urban, ecclesiastical, and knightly elites, as well as those belonging to the traditional princely and noble ranks of the central middle ages. Even 'feudal law' could apply to priests, merchants, villagers, and women in certain circumstances.⁵⁰ In practical terms, then, the elites with a stake in the exercise of power were varied and were not arranged in a clear and undisputed hierarchy, even if some were obviously much wealthier or more powerful than others. Indeed, in 1460 the Basler jurist Peter von Andlau noted in his *Libellus de Cesarea monarchia* that the hierarchy of the *Heerschildordnung* was difficult to uphold in reality because 'many different titles are assigned to princes

⁴⁶ *MGHFI*, iv.1–2, 43, 80–1 (*Schwabenspiegel*); see also *ibid.*, i.1, 69–70 (*Sachsenspiegel*).

⁴⁷ *MGHFI*, i.1, 72–3 (*Sachsenspiegel*); *ibid.*, i.2, 19 (*Sachsenspiegel*); *ibid.*, iv.1–2, 47–9, 396–8 (*Schwabenspiegel*).

⁴⁸ The case of King/Emperor Sigismund, examined in Chapter 10, exemplifies these possibilities.

⁴⁹ See e.g. *MGHFI*, i.1, 223 (*Sachsenspiegel*).

⁵⁰ *Ibid.*, iv.1–2, 398–400 (*Schwabenspiegel*).

and nobles according to regional diversity'.⁵¹ The surviving sources support this picture. They suggest that a surprising range of people could be political actors in the Holy Roman Empire: princes; men and women of various noble and knightly strata; prelates, abbots, and other clerics with temporal assets or jurisdictions; townspeople, especially patricians, who might well be considered noble; and even village leaders. While not every sphere of activity was open to all of these groups, a variety of elites can be detected in the sources interacting on what might be called a 'horizontal' plane. We shall see in the chapters that follow that they all used the same technologies and modes of ritual, judicial, and military interaction, and that they were connected to one another through the use of a shared array of tenurial, financial, and jurisdictional formats. These common approaches and the interconnectedness that they engendered were significant, for in other respects the Empire was very fragmented. Many of these actors were 'imperially immediate' (*reichsunmittelbar*), such that they recognized no official overlord apart from the crown. Others were formally subject to another power, usually a prince, but enjoyed very substantial independence, and they might serve multiple lords while pursuing their own autonomous agendas. In this context, the associations examined in Part II of this book can be understood as both a means of facilitating collective action between atomized powers and a product of the shared ideas and practices through which these same powers regularly interacted.

The Upper German lands represent an ideal case for studying these structures and dynamics. They played a disproportionately important role in the politics of the Holy Roman Empire as a whole, such that events and configurations in these regions shaped the imperial polity in its entirety. Upper German cities played host to the vast majority of the assemblies and diets held between the mid-fourteenth and early sixteenth centuries, with the consequence that participants were drawn mainly from neighbouring Upper German governments, while the itineraries of monarchs from Charles IV to Charles V were disproportionately concentrated in the southern regions of the Empire.⁵² Some of the most important figures in imperial politics, such as the Rhenish electors and various branches of the house of Austria, were based in or near this southern zone. Furthermore, the advanced fragmentation and close concentration of Upper German lordships and authorities resulted in frequent and multi-layered interactions between them, producing an exceptional volume of surviving

⁵¹ *Peter von Andlau*, ed. Müller, p. 259.

⁵² For data concerning the majority of assemblies in this period, including locations, see Annas, *Reichsversammlungen*, ii. Kings' and emperors' itineraries for this period can be traced in *RI*, viii, xi–xiv.

evidence. This includes a large body of surviving association treaties and related correspondence, providing a suitably broad empirical basis for the comparative analysis of associative political culture in Part II.

The shape and boundaries of 'Upper Germany' are open to debate. As a term denoting the southerly regions in which Upper German dialects—Alemannic, Swabian, Franconian, and Bavarian-Austrian—were historically spoken, it could encompass all of modern-day southern Germany, Alsace, Switzerland, and Austria.⁵³ For pragmatic and historical reasons, this book will concentrate mainly on the most central and fissile of these regions, the large and open-ended zones along the Upper Rhine and in Swabia, which formed roughly the south-western quadrant of the German-speaking core of the Holy Roman Empire. Defining the approximate parameters of the study in this way gives the body of primary sources on which it draws manageable proportions. More importantly, even by Upper German standards, an unusually dense concentration of political elites and authorities of every kind—electors, dukes, margraves, counts, lords, knights, bishops, abbots, free and imperial cities, subordinate towns and communes—was based in or around the Upper Rhine and Swabia. They can therefore serve to some extent as a microcosm for political structures and dynamics in the Empire as a whole, provided that the evidence from these zones is extrapolated cautiously and with an awareness of the potentially different configurations in which such actors might be arranged in other regions of central Europe. Certainly, we shall see at times that the conventions and institutions explored in detail in the context of the Upper Rhine and Swabia also applied in neighbouring regions, such as the multiple sub-duchies in Bavaria and Austria and the entangled princely, urban, and noble lordships of Franconia, bringing the authorities based there into frequent contact with Rhenish and Swabian powers.

To refer to the Upper Rhine and Swabia as 'open-ended' regions is therefore to acknowledge both that they had no obvious natural boundaries, and that they were deeply enmeshed within the wider political networks that constituted the Holy Roman Empire.⁵⁴ This is not quite to say that these zones are arbitrarily defined, or that they lacked any historical coherence at all. Despite their political fragmentation, their inhabitants might sometimes evoke regional or sub-regional groupings—identifying as Alsatians or Rhinelanders ('Elsesser', 'Rinische'), for instance, or as denizens of a 'Swabian fatherland' ('Vaterland Schwaben'), or even, by the sixteenth

⁵³ Barbour and Stevenson, *Variation in German*, pp. 76–7.

⁵⁴ On the difficulties of defining the boundaries of the Upper Rhine and Swabia, see Herrbach-Schmidt and Schwarzmaier, *Oberrhein*; Graf, 'Das "Land" Schwaben'.

century, as inhabitants of 'Upper Germany' ('Oberdeutschland').⁵⁵ These identities might be defined in relation to dialects, topographical districts, or historical entities (such as the duchy of Swabia, which dissolved in the thirteenth century). They were mostly deployed in politicized humanistic texts or communal manifestoes, and as such they were by no means self-evident or universally agreed.

For the purposes of this book, and without limiting the enquiry to these zones, the Upper German regions from which most evidence considered here is drawn can be roughly outlined in geopolitical terms as follows. The 'Upper Rhine' is understood broadly to include all of the southern stretches of that river, from its source in the Rhaetian Alps, along the *Rheintal* flowing northwards into Lake Constance, then westwards along the *Hochrhein* towards the *Rheinknie* at Basel, then northwards through Alsace, the Breisgau, and Baden, up to the edges of the Rhine Palatinate. In the far south-west of this zone were the Swiss communes around the *Vierwaldstättersee* and Bern and its hinterland. Towards the centre and north were the Rhenish cities of Speyer and Mainz, the lands ruled by the Counts Palatine, parts of the growing agglomeration ruled by the counts of Württemberg, the Neckar valley, and the Black Forest up to its northern fringes. A shifting archipelago of lordships belonging to the Habsburg dukes of Austria, known later as *Vorderösterreich* ('Outer Austria'), was scattered across all of these regions. To the west, the Vosges and parts of Lorraine will feature occasionally. To the east were the kaleidoscopic lordships of Swabia. It can be sub-divided very approximately into two geographical areas. Upper Swabia, the hilly triangular zone between Lake Constance, the Upper Danube, and the River Lech, was home to several noble dynasties and prominent imperial cities, including Ulm and Augsburg in its northern tip. Lower Swabia, encompassing the hills and woods of the Swabian Jura and the plain stretching north-eastwards towards Franconia, housed cities such as Esslingen and Reutlingen, and many of the properties and jurisdictions of the comital dynasties of Württemberg, Helfenstein, and Oettingen, among others.

These core areas of Upper Germany will be kept in comparative perspective with one another and with the rest of the Empire, to avoid artificially isolating any one region, 'territory', social group, or political or 'constitutional' layer. In this way, we shall see that a comparative and connective approach to the later medieval evidence makes the distinction between such putative spheres of activity unnecessary and unhelpful, resolving and moving beyond the concern, articulated by Hartmut

⁵⁵ Graf, 'Regionalismus', pp. 179, 190; Blicke, *Kommunalismus*, i, 13–14.

Boockmann among others, about the difficulty of deciding what was ‘imperial history’ and what was ‘isolated regional and local history’.⁵⁶ The approach adopted in this book aims to demonstrate that a holistic and interconnected model of the Empire that synthesizes the dominant patterns evident in the rich primary material is not only possible, but yields new and more plausible ways of thinking about political life in late medieval and early modern German-speaking Europe.

⁵⁶ Boockmann and Dörmeier, *Reichsreform*, p. 22.

PART I

SHARED AND INTERCONNECTIVE STRUCTURES AND PRACTICES

The first step towards gaining a comparative and integrated perspective on political life in the Holy Roman Empire is to examine those spheres of activity which were common to all political actors. Contrary to the assumptions contained in some of the literature surveyed in the Introduction, a repertoire of discourses, technologies, and methods of government and political interaction was employed by all of the various groups of power-wielders in the Empire: princes, prelates, nobles, towns, and even small communes. Furthermore, most of these shared structures and practices were inherently interconnective; the way in which they worked required multiple powers to come into contact with one another. That contact might be cooperative or conflictual, but in any case it generated constant interaction, making the political elites of Upper Germany highly interdependent. The four chapters that follow explore the most important of these shared and interconnective structures and practices, from documentary and communicative conventions and rituals (Chapter 1) to forms of justice and mediation (Chapter 2), pathways of conflict (Chapter 3), and configurations of lordship (Chapter 4).

1

Documentary Culture and Ritual

The use of writing and communicative and transactional rituals were two hallmarks of political life in the southern Holy Roman Empire. By the mid-fourteenth century, the beginning of the period under consideration, the communication and recording of information pertaining to political activities and interactions, and indeed these activities and interactions themselves, involved the use of written data in a variety of documentary forms. Such documents were used by the entire spectrum of the political elite, including not only princely administrations, but also noblemen and women, episcopal and monastic lords, and urban patricians, merchants, and guild masters (either as individuals or as corporate bodies and governments). By the early sixteenth century the use of documents had expanded quantitatively and qualitatively, though the outward forms of most written instruments remained very similar to those surviving from the fourteenth century. That is not to say, however, that there was a linear growth in literacy among the regional elite and its administrators, or that written words became the dominant medium for political activity. The evidence from later medieval Upper Germany corroborates the view formulated by modern scholarship that many uses of writing in this period were characterized by 'pragmatic literacy'.¹ This research has stressed that 'literacy' must be situated alongside 'orality' and 'rituality', which were complementary to it.² Among the Upper German source material, documents do indeed seem to have had a practical, performative function; writing was a means to an end as part of a wider array of tools and traditions of communication, preservation, and representation. This chapter will examine this documentary culture as it pertained to political activity, with particular attention to its ritual contexts. It will then consider in more detail a particularly important type of ritual in the Upper German lands: the oath.

The instrumental nature of the documentary sources makes them a valuable witness to the character of politics as their users practised it.

¹ See below, pp. 23–4.

² Meier, 'Einführung', p. xi.

Because they contained claims about the possessions and activities of political actors, and were therefore a basis for action (claiming an inheritance, pursuing a lawsuit, calling on an ally, declaring war, and so on), many such documents were not simply a passive record, but an active and performative component of the transactions and interactions which constituted political life. Thus, although fourteenth- and fifteenth-century documents do not offer straightforward narratives of events, and can be difficult to interpret in isolation from the oral and ritual practices which accompanied their use, they are the most directly relevant written sources available for the study of typical day-to-day political processes. For this reason, and because of their sheer quantity, documentary sources provide the main empirical basis for the interpretations set out in the chapters that follow, although many will also draw on evidence from chronicles, law-books, and political or religious tracts, which can offer more consciously constructed insights into the structures and conventions under consideration. It is therefore useful to begin with an examination of the most common forms of documentary sources and some of the questions they raise: who created them, who used them, and how they were used. Not only is this book based on the evidence of political life provided by these sources, but the sources were themselves once an integral part of that political life.

The Upper German documentary culture of this period was strongly oriented towards the task of laying claim to property and governmental powers and privileges. Many of the documents pertaining to political life consequently fulfilled what we would view, from a modern perspective, as both public and private functions. Ownership of an item of property often entailed the exercise of fiscal and jurisdictional powers bundled together with the item in question, and the documents which legally ascribed property to an owner also listed these powers and detailed their scope. Any document relating to the ownership or exercise of land, titles, or powers was therefore potentially a constituent part of the political landscape in that it asserted the accompanying governmental functions to which its owner(s) laid claim. For this reason, legal documents and even records with no inherent legal force were not only observations about who owned and exercised what, but actual enactments intended to persuade a public of the validity of their owners' authority. In the absence of a monarchical administration capable of managing regional politics directly and verifying and enforcing claims on behalf of local actors, it was imperative for these powers to be able to advertise their claims for themselves, and for the whole political elite to employ documentary conventions which made this possible. From this imperative stemmed the need for the written word to have a public element (*Öffentlichkeit*)

to it, a feature which German medievalists have stressed repeatedly in recent years.³ This is of particular relevance to documents relating to governmental authority, since, as this research into 'public communication' has emphasized, politics was not just about the accumulation of power, but also the communication of that power, for which writing was one important vehicle.⁴

It is certainly the case that the form and content of documents produced in the Holy Roman Empire broadcast messages which were implicitly or explicitly intended for an audience. They did so through formats and languages which were generally the preserve of only the most powerful monarchs and magnates in more centralized European polities. The introductory formula used in almost all documents with legal force, whatever their purpose and whoever issued them, makes this clear: 'I/we [the individual(s) behind the ensuing enactment or transaction] recognize and make it known publicly and to the many with this letter' ('Ich/wir...bekennen und tun kund öffentlich/offenbar maniglichem mit disem brief'). Variants of this formula can be found in a range of contexts from throughout the period between 1346 and 1521, including grants of privileges from the king or emperor,⁵ feudal letters,⁶ letters of arbitration,⁷ transfers of authority over lands and castles,⁸ pledge (*Pfandschaft*) contracts,⁹ bilateral promises not to attack one another,¹⁰ and treaties of alliance.¹¹ Similarly, such documents referred the audience to the seals which invariably accompanied and thereby legitimized them: 'And to make this a true and firm document...[the signatory] has attached his seal to this letter' ('Und zu° einem waren und steten urkunde...so hat...sin ingesigel gehenket an disen brief').¹²

It can be inferred from the contexts in which such documents were typically deployed—to back up the owners' claims in a dispute—that the people at whom the content was 'publicly' aimed were primarily other members of the political elite or their legal assistants (usually noblemen, knights, and/or patricians, i.e. also members of the elite). The limited level of learning and literacy among this group necessitated set formulae in a mutually comprehensible language, so it is no coincidence that an established legal-political vocabulary in the High German vernacular developed

³ On the vast topic of *Öffentlichkeit* and communication see, among others, Melville and Moos, *Das Öffentliche*; Althoff, *Formen und Funktionen*; Malz, 'Der Begriff "Öffentlichkeit"', pp. 13–26; Kintzinger and Schneidmüller, *Politische Öffentlichkeit*.

⁴ Oelze, 'Der Wandel städtischer Politik', p. 36.

⁵ GLA D/537.

⁶ ADHR E2378.

⁷ UBB, vii, 136.

⁸ RUB, iii, 88.

⁹ CDM, i, 486–8.

¹⁰ UBB, vi, 12.

¹¹ CDM, i, 307.

¹² Ibid., i, 312.

in the later middle ages. 'Pragmatic literacy' provides a useful analytical lens through which to consider this documentary culture. The term has found widespread currency in the scholarship of high and late medieval Europe, having been popularized in two—apparently separate—contexts: a fourteen-year (1985–99) project at the University of Münster on the theme of 'Agents, Fields and Forms of Pragmatic Literacy in the Middle Ages'¹³ and the work of Malcolm Parkes, among others.¹⁴ The former's conclusion that some engagement with instrumentalized literate processes was becoming unavoidable at the end of the middle ages¹⁵ and the latter's remark that 'pragmatic literacy is implicit in the mass of documents that survives from all aspects of mediaeval administration'¹⁶ are both borne out by the Upper German evidence. This is most clearly indicated by the language of the sources. In the thirteenth and early fourteenth centuries, as the number of documents produced by and for the lay elite expanded, the vernacular became the preferred written language in most of southern Germany, except for the imperial chancery and those of ecclesiastical lords. By the reign of Charles IV even these chanceries were employing the vernacular in their dealings with lay powers. The bishop of Strasbourg, for example, used German in all treaties, transactions, and correspondence with neighbouring lords and towns from the mid-fourteenth century onwards.¹⁷ A formulaic written version of Early New High German (*Frühneuhochdeutsch*), with variations based on local dialects but uniformity in its central vocabulary, became the language of documentary culture because the users of the resulting documents found it convenient to understand and—where they were literate—read and write. Indeed, the impetus for the adoption of the vernacular came in the first instance from lay producers of documents, and the imperial chancery reacted accordingly in order to correspond with the localities in their preferred language.¹⁸ The formulae in documents also hint at a very pragmatic interaction between a partially literate elite and documentary culture. Following the public opening discussed above, charters typically specified that they were addressed 'to all who see it or hear it read out' ('allen den die In sehen oder horen lesen'). The reference to merely seeing (but not necessarily reading) or hearing a charter suggests that it was an entrenched assumption throughout this period that most users of documents would not be able to read them in person. Literacy rates among the elite are impossible to track,

¹³ See Keller, 'Pragmatische Schriftlichkeit', pp. 1–7; Meier, 'Einführung'.

¹⁴ Parkes, *Scribes, Scripts, and Readers*. See also Britnell, *Pragmatic Literacy*.

¹⁵ Meier, 'Einführung', p. xii.

¹⁶ Parkes, *Scribes, Scripts, and Readers*, p. 278.

¹⁷ E.g. ADBR G97–9.

¹⁸ Polenz, *Geschichte*, p. 56.

but there are isolated clues. For example, there is an interesting reference in an arbitrational record to an encounter in Ribeauvillé in 1384 between Lord Bruno of Rappoltstein and his brother-in-law and rival Count Heinrich of Saarwerden, in the course of which the latter demanded of the former that he 'hear read out a letter', to which Bruno replied that 'if he wanted to have read out the letters we had pertaining to one another, I would happily hear them'.¹⁹

The possibility, suggested by such scenarios and by the formulae in the documents themselves, that many elites could not read fluently or at all is one indicator that there were limits to what documents alone could achieve in political life, and that they necessarily functioned alongside oral, ritual, and other practices and behaviours. The interplay between these last and the written word needs to be taken into account in order to make sense of political interactions in the Holy Roman Empire in this period. First, however, we must consider the most important types and forms of document which played a role in these interactions. The archival evidence from the fourteenth, fifteenth, and early sixteenth centuries encompasses a range of these types, all of which were produced and used by actors from across the socio-political spectrum. They include items of correspondence (*Briefe*, *Akten*), usually closed with a small (or 'secret') seal; governmental records, formatted as rolls, books, or codices, listing or preserving rents and patrimonies (*Urbare*, *Zinsbücher*), fiefs (*Lehenbücher*), and charters and letters (*Kopialbücher* or *Briefbücher*), among other things; and even some notarial instruments.²⁰ All of these documentary types were important, but none had greater symbolic and legal significance than the sealed charter or contract (*Siegelurkunde*). This format was so widespread and so malleable that it warrants closer examination, especially since it was a central element in many of the practices considered in later chapters.

In the later middle ages, the German word *Urkunde* denoted a charter granting or supporting claims to rights and powers, or—more generally—a document with some sort of legal force. Because of their importance as evidence for the status and rights of political incumbents, whether they were princes, noblemen, members of a municipal government, or ecclesiastical lords, *Urkunden* were generally well preserved. They survive in large numbers in modern archives. *Urkunden* remained fairly static in

¹⁹ *RUB*, ii, 201.

²⁰ See, among others, Jörg, 'Effektivierung des Botenverkehrs'; Jucker, 'Trust and Mistrust', pp. 213–36; Sablonier, 'Verschriftlichung und Herrschaftspraxis', pp. 191–220; Köhn, 'Regesten', pp. 41–99; Wild, 'Schriftlichkeit in der Verwaltung', pp. 69–77; Schüler, *Geschichte des südwestdeutschen Notariats*.

their outward forms and formulae between the mid-fourteenth and early sixteenth centuries. Two things gave them legal force. The first was the use of authentic seals by the grantor of the rights or the initiator of the proceedings detailed in the content; where multiple parties were involved in a judgement, contract, alliance, or some other kind of multilateral deal or agreement, all would affix their seals. A second authorizing element sometimes found in such documents is the mention of witnesses to a grant, transaction, or judgement. Sometimes they would affix their own seals to confirm that they had witnessed the enactment of or agreement about the content.

The importance of seals as a means of proving authorization and authenticity is the reason why this type of document has been given the specific label of *Siegelurkunde* ('seal-charter') by German diplomats.²¹ Seals were the defining element of these documents in that they had no authority or binding power without them. The mandatory formula just before the date in all such documents reinforces this very clearly: 'And to make this a true and firm *Urkunde*...[the signatory] has attached his seal to this letter'.²² That seals were a *sine qua non* of the majority of legally binding documents in the southern Empire explains why every type of political actor and entity—princes, noblemen, bishops, abbots, town councils, patricians, and even rural communes like Uri and Schwyz—had a seal of their own. In the course of the period under consideration a few associations, like the knightly Society of the Leopard, developed their own collective seals.²³ The proliferation of seals to all sectors of political society was recognized by the author of the 'Reformation keyser Sigmunds', a polemic against contemporary politics and ecclesiology written by an anonymous cleric at the Council of Basel around 1439. As part of his argument that power ought to be restored to the king of the Romans and the independence of the principalities and towns reined in, he called for the use of seals to be restricted to the monarch alone. In his view, *Siegelurkunden* were a deviation from correct legal practice, which ought to rely solely on instruments drawn up by clerical notaries when written validation was required. He reserved particularly bitter criticism for bishops who used seals in their dealings.²⁴ It is a testament to the widespread employment of *Siegelurkunden* in all areas of political life that a proponent of imperial

²¹ See Bresslau, *Urkundenlehre*, i, 40–50.

²² The formula used here, of which there are countless other examples with only minor variations, is from *CDM*, i, 312.

²³ See Chapter 5, p. 105.

²⁴ *RKS*, pp. 300–4.

centralization should have targeted seals as a particularly malign symbol of legal-political autonomy in the localities.

If seals were universal in Upper Germany, it is because *Siegelurkunden* fulfilled so many functions in everyday political—and indeed legal and financial—life. Some form of charter, couched in widely accepted vernacular formulae and authenticated by the use of seals and (sometimes) witnesses, was the default format when a legally binding written contract, or evidence of a legally binding transaction having taken place, was required. The only alternative was the notarial instrument, which did not really take hold in the later middle ages, and certainly never displaced the more popular *Siegelurkunde*.²⁵ The latter's components were so basic and widely recognized that they could be configured to fit almost any conceivable purpose. The evidence cited in this book includes *Siegelurkunden* from a variety of contexts. Some were produced in the chancery of the king or emperor of the Romans, and granted or confirmed the assets, revenues, or jurisdictions of local actors. All the powers of the Upper German lands, whether they were princely, noble, urban, or ecclesiastical, relied upon the provision of charters from the monarchs to demonstrate the legitimacy of their authority. The depiction of a generic monarch handing out several charters with appended seals in a mid-fifteenth-century manuscript of the *Schwabenspiegel* (Figure 1) captures the imaginary importance of the crown as the purveyor of rights and of the *Siegelurkunde* as the vehicle and proof of those rights in the localities. Sealed charters and diplomas were put to similar use by local powers when they granted, pledged, or sold one or more components of lordship to their peers or subordinates; much of the analysis in Chapter 4 will draw on these abundant transactional *Siegelurkunden*. Just as importantly, sealed documents with legal force underpinned the dizzying variety of multilateral decisions and commitments into which political actors in the southern Empire entered in the fourteenth to sixteenth centuries. These ranged from letters of surety to the judgements and outcomes issued by panels of arbitrators (*Abschiede*, *Schiedssprüche*). Most significantly of all for the political landscape of the Holy Roman Empire, multilateral *Siegelurkunden* were the means by which associations, such as leagues, alliances, and knightly societies, were formalized. The resulting treaties are considered in detail in Part II. Here it is sufficient to note that, as illustrated by Figures 2 and 3, the affixing of the seals of all the participants was deemed essential to authenticate these treaties.

²⁵ See Schüler, *Geschichte des südwestdeutschen Notariats*.



Figure 1. Illustration (detail) from the Diebold Lauber workshop *Schwabenspiegel* (c. 1440) depicting the king of the Romans distributing *Urkunden*. Bibliothèque Royale de Belgique, Brussels, Cabinet des Manuscrits, ms. 14689–91, fol. 95v

THE INTERPLAY BETWEEN LITERACY, ORALITY, AND RITUAL

This chapter began by noting that ‘pragmatic literacy’ must be viewed alongside other practices and media of communication. It is important to finish this survey of documentary culture with some reflections on how the sources discussed so far fitted into a wider, richly textured world of political interactions. If it is true that most elite groups in Upper Germany shared the same basic palette of written tools and formats, it is also true



Figure 2. 1439 alliance treaty of the bishop of Strasbourg, the free and imperial cities of Alsace, the lords of Rappoltstein and Lichtenberg, and several knights. ADBR G139/3, author's photograph



Figure 3. 1479 renewal treaty of the alliance between Zurich, Bern, Lucerne, Uri, Schwyz, Unterwalden, Zug, Glarus, Fribourg, and Solothurn on the one hand and the bishop of Strasbourg on the other. ADBR G153, author's photograph

that, for all of these groups, 'documentary culture' involved a lot more than just the written word. This is clear from the popularity and durability of the *Siegelurkunde* in the period under consideration. The dominance of a documentary type authenticated by a pictorial object, and the inability of more intricate written formats like the notarial instrument to displace it, is revealing. As we have seen, its vernacular language and its endlessly replicated formulaic components point to an elite which was by no means fully literate, and which was content to operate with a restricted toolbox of easily accessible and re-deployable written forms. What is more, even the seals themselves served only to authenticate the written record of whatever grant, transaction, or treaty the *Urkunde* legally evinced. Very often the actual deal itself was enacted and legitimized in person by the parties involved, using customary procedures and rituals, among which the taking of oaths was the most important. The swearing of oaths in the appropriate setting remained the primary method of binding people to a government, to one another, or to any kind of grant, transaction, or office. Even though *Siegelurkunden* had legal force as evidence of the rights, possessions, or relationships of their owners, they were ultimately only written and material witnesses to the occurrence of face-to-face ritualized encounters in which oath-swearing was the central legitimizing act with the highest legal significance of all.

Indeed, the general attitude to the written word on its own among the majority of power-wielders in the later medieval southern Empire seems to have been characterized by suspicion. True authority and trustworthiness both lay in the spoken word, in the context of face-to-face encounters.²⁶ The frustratingly limited detail in many rendered judgements and *Abschiede* (records or outcomes) of arbitrational committees and meetings (*Tage*) implies that the substance of the discussions held in courts and councils was rarely committed to writing, and much source material relates only a laconic summary of the major decisions and issues. In feudal transactions, it was the ritual of homage and the pronouncement of reciprocal vows which legally enacted the enfeoffment, with charters merely enumerating the contents of the fief and recording the fact that the requisite homage had taken place. Even in the later fifteenth century, the production of *Lebensbriefe* and *Lebensrevers* (feudal letters and counter-letters) was by no means a mandatory part of this process, and seems to have been a matter at the discretion of the liege-lord and vassal(s) concerned. It is striking that *Lehenbücher* often note the absence of any letter or *Revers* for the enfeoffments listed within them.²⁷

²⁶ Wild, 'Schriftlichkeit in der Verwaltung', p. 69.

²⁷ Ibid., p. 75.

Even the expanding records and correspondence networks of the various later medieval governments of the region belonged to a multi-layered experience of the negotiation and maintenance of power, for which writing was still only one medium, and not necessarily the most important one. The temptation to interpret records and letters as manifestations of the march towards rationalized, bureaucratized statehood needs to be resisted. For instance, Roger Sablonier has shown that *Urbare* were not only about accurately tracking (and thereby controlling) the patrimony of a government or institution, but also symbolic representations of power and wealth.²⁸ Records of council meetings within a single government, or at *Tage* (conferences, councils, or diets) held by members of an association, are rarely complete minutes, but rather short itemized references to a series of raised issues. The same is true of the diplomatic reports of urban *Boten* (messengers), and the agendas for their meetings with outside powers; generally there is an order to discuss a topic, or a note that discussions were held about an issue, but the details are left to be related in person by the author(s) to the recipient(s).²⁹ Michael Jucker has demonstrated that even the records of the council meetings of the Swiss Confederates were about fulfilling targeted political agendas and circulating summaries among networks of allies, all of which included face-to-face ritualized interactions as well as the written sources which survive, and none of which fit into the simplistic paradigm of pragmatic literacy as the vehicle for the bureaucratization of the late medieval state.³⁰

The complex complementarity of documents and records with other customary methods of communication and encounter, many of them performative, reveals a great deal about political culture in the later medieval Empire. It will by now be clear that the elite, for all its diversity, relied on a selection of mutually intelligible and essentially similar documentary forms. In urban, noble, and ecclesiastical contexts alike, these forms only took on their full meaning and functions alongside other practices. The most importance of these practices was the oath, which is worth examining in more detail.

OATHS IN THE POLITICAL CULTURE OF THE HOLY ROMAN EMPIRE

The ritual practice of oath-taking was one of the most ubiquitous features of political life in the southern Empire. The *frühneuhochdeutsch* noun 'eid'

²⁸ Sablonier, 'Verschriftlichung und Herrschaftspraxis', p. 102.

²⁹ E.g. *RTA*, vi, 113. ³⁰ Jucker, 'Pragmatische Schriftlichkeit', pp. 405–11.

(‘oath’), as well as its alternative spellings (‘eyd’, ‘eit’, ‘aid’, and so on), is to be found in abundance in any cross-section of documents from this period and region, ranging from feudal contracts recording ceremonies of liege-homage to surety contracts noting that the guarantors of a debt swore oaths to uphold their obligations.³¹ The same is true of the related verbs ‘schwören’ (‘to swear’ or ‘to take an oath’) and ‘geloben’ (‘to pledge’ or ‘to make a vow’) and their various semantic offshoots.³² Based on the extreme frequency with which oaths are mentioned in a range of primary sources, it seems that oath-taking occurred in every context in which political elites interacted with one another. It was a mandatory component of many legal and judicial processes: in both ad hoc meetings of arbitrators and more institutionalized courts, litigants, mediators, and judges all had to swear oaths according to acceptable ceremonial protocols in order to validate their claims, testimonies, and decisions. More generally, oaths ritualistically cemented the whole range of transactions and relationships into which political actors entered with one another, including tenurial ones, such as the granting of fiefs, pledges, and offices, and associative ones, such as the creation of alliances and leagues. All kinds of actors—princes, prelates, nobles, and burghers—made use of this same set of legal, transactional, and relational forms, and so all of them necessarily took part in the accompanying oath-based rituals.

Of course, oaths were not unique to Upper Germany. The oath has often been noted as a very widespread custom which attended all kinds of social and political relationships in most pre-modern European societies.³³ However, the significance of oath-taking for the southern Empire goes beyond its pervasiveness as a generic formality. This was a highly fragmented zone, in which the monarchy, while symbolically important, provided no reliable and universal administrative framework. In the absence of an overarching or external authority, it was imperative for local political actors to be able to rely on one another in their day-to-day interactions. Oath-taking, as a public trust-building performance, fulfilled this function, and it is impossible to make sense of the shared political culture of Upper Germany without taking this ritual into account.

There is an extensive and long-standing Germanophone historiography of oaths, and it is worth surveying the key findings of this scholarship. Unsurprisingly, in view of the apparently judicial nature of many oath-taking rituals, this scholarship has predominantly been written under the

³¹ E.g. *RUB*, ii, 613; *UBS*, vii, 349–50; *UBB*, vii, 446–7.

³² E.g. *HZB*, vi, 13; *GLA* 46/389.

³³ See for example Southern, *Making of the Middle Ages*, p. 110; Bartlett, *Medieval Judicial Ordeal*, p. 30.

umbrella of legal history (*Rechtsgeschichte*). Within this framework, the oath has been viewed as a central component of the constitutional history of German political units. This is especially true of those units which fit most easily into the Gierkian definition of *Genossenschaften*.³⁴ This principally means towns, as well as associations such as town leagues and, within an exceptionalist and nationalistic framework, the Swiss Confederation.³⁵ The oath has been said to have been part of these units' 'constitutional structure' (*Verfassungsstruktur*), and the legal procedure which enabled membership of a town or association in the first instance.³⁶ In Wilhelm Ebel's influential scheme, the oath was the ritual of choice for establishing voluntary consent (*Willkür*) in any community, like the ideal-typical medieval town, that made its own statute law (*Satzung*—as opposed to *Recht* and *Gebot*, the timeless principles of divine justice and rules imposed from above).³⁷ Though the oath has been closely linked to these supposedly voluntary and quasi-egalitarian 'sworn communities' (*Schwurgemeinschaften*), legal historians have also noted that it occurred in other contexts, where the relationship between participants in the ritual was overtly hierarchical. An antithetical form of oath has therefore been posited, which Ebel called the 'subject-' or 'loyalty-oath' (*Untertan-/Treueid*). Lothar Kolmer developed Ebel's categories into a dichotomous typology: the 'vertical-hierarchical' (*vertikal-hierarchisch*) oath between lord and subject, master and servant, or employer and employee on the one hand; and the 'horizontal-equal' (*horizontal-paritätisch*) oaths of citizens, associates, and socio-political equals on the other.³⁸ More synthetically, Paolo Prodi has described the oath as a near-universal 'sacrament of power', the 'bedrock of the political contract' either between multiple rulers (in a horizontal direction) or between rulers and ruled (in a vertical direction).³⁹

From a comparative perspective on political culture in the Empire, it is artificial and unhelpful to compartmentalize the oath in the manner of Ebel's or Kolmer's typologies. The political and judicial use of oaths was not confined to any one community, group, or rank. Rather, it was a widespread practice that was universally valorized and served a central function in almost all relationships and transactions. That is not to say that the trappings of some oath-taking rituals did not seek to establish hierarchies between participants, or that other forms did not seek to

³⁴ See Gierke, *Genossenschaftsrecht*, i.

³⁵ On the Confederation, see for example Blickle, 'Befriedung des Raumes', pp. 49–64.

³⁶ See Ebel, *Bürgereid*; Koch, 'Integration von Neubürgern', p. 77; Dilcher, 'Bürgerrecht und Bürgereid', pp. 83–97.

³⁷ Ebel, *Gesetzgebung*, pp. 15–26, *Die Willkür*.

³⁸ Kolmer, *Eide*, pp. 72, 168.

³⁹ Prodi, 'Der Eid', p. vii, *Sakrament der Herrschaft*.

emphasize a sense of parity and community. However, in reality most judicial, transactional, or bond-forming rituals contained multiple liturgical elements which might simultaneously emphasize equality and subjection, or partnership and servitude.

That most oath-taking rituals had common elements is hardly surprising, given that all oaths, regardless of their context and the status of the people taking them, shared the same basic function. As Kolmer himself recognized, the desired effect of swearing a promissory oath—‘horizontal’ or ‘vertical’—was to provide ‘security’ to a given relationship or commitment by obliging those involved in it to make a ritualized public promise to respect its parameters.⁴⁰ This reading of the application and purpose of oaths has been corroborated and expanded by more recent work on the subject influenced by anthropological methodologies. André Holenstein has dubbed the oath ‘a ritual of reassurance’ for two reasons.⁴¹ On the one hand it forced the oath-takers to stake their conscience, with God as their witness and the threat of divine punishment as a deterrent, on fulfilling the commitment they were making, whatever that commitment might be—to tell the truth in a court, to be obedient to a lord or superior, to respect the terms of an alliance, and so on. On the other hand it ‘stabilized expectations’ by framing proceedings and engagements in a universally known ritual associated with truthfulness and loyalty. It seems very plausible that security, reassurance, and stability were the desired outcomes of oath-taking in all its late medieval and early modern Upper German manifestations. The political actors of this area were often capable of occupying multiple roles and offices. In a world in which a bishop could simultaneously be a count and a patrician’s daughter could be the holder of a landed fief, it was clearly important that lords, partners, and subjects be confident that an actor was going to fulfil the requirements of a particular role.⁴² The value of confidence and trust in the creation and maintenance of alliances and associations between sometimes quite diverse parties is even more obvious. This was a fragmented, polycentric, and overlapping political landscape, in which many autonomous political actors were constantly interacting. It was rare for these actors to have completely equal power bases and statuses, but it was equally rare for one actor to dominate or subjugate another completely. In these circumstances, it was vital for the whole spectrum of elites to share a mutually intelligible political culture. As a kind of ritual cement which undergirded many

⁴⁰ Kolmer, *Eide*, p. 360.

⁴¹ Holenstein, ‘Rituale der Vergewisserung’, pp. 229–50.

⁴² These examples being the bishop of Strasbourg as landgrave of Alsace and Ursula Ziboll as a fief-holder in Uttental, discussed on pp. 81–2.

relationships and encounters, oaths were an important feature of this political culture.

The evidence from legal and political documents, law-books, and chronicles suggests that all types of oaths in the Holy Roman Empire were expected to have obligatory characteristics which underlined their confidence-inducing purpose. These characteristics seem to have been relatively consistent across all the governmental contexts in which oath-taking took place. A universal feature of the outward form of oath-taking for Christian men, for example, was what the vernacular documentation referred to as the 'ufgehebter hand': the raising of the right hand during the swearing procedure, which was in keeping with the practices used elsewhere in Europe.⁴³ This gesture is explicitly noted in formulae from a variety of documents witnessing to the formalization of relationships. For instance, the penultimate sentence in a 1398 contract employing one Hans Ensel von Gundolfesheim as a mounted soldier for the town of Hagenau contains the following formula:

I, the above-named Hans Ensel, have gladly sworn a spelled-out oath, with a raised hand and read-out words on holy relics, to hold truly and strongly to each and every one of these afore-written things, and not to do or have done anything against them in any way, all without any deception.⁴⁴

Similarly, it was frequently recorded in alliance treaties that the parties involved swore oaths in this way. In the 1422 treaty by which Lady Verena of Tübingen-Lichteneck and her noble and knightly network formalized their alliance with the imperial cities of Alsace, it was declared on behalf of Verena's affinity that they had 'gladly done and sworn spelled-out oaths to God and the saints with raised hands and read-out words'.⁴⁵

Illustrations of oath-taking produced in the late medieval Upper Rhenish space suggest that this posture had even more specific characteristics which the formulae do not mention, namely a raised thumb and index and middle fingers, in a symbol which is thought to have represented the Trinity.⁴⁶ All the visual representations of oaths in a copy of the *Schwabenspiegel* produced in the Hagenau workshop of the bookmaker Diebold Lauber c. 1425–45 show this distinctive pose.⁴⁷ The representation of the electors swearing an oath before choosing a new king has them all displaying this same symbol (Figure 4), and it is revealing that, in order to depict a prisoner making a pledge from a tower window, the artist felt that it was

⁴³ See Drüppel, 'Schwurhand'.

⁴⁴ AMH EE3.

⁴⁵ FUB, iii, 116.

⁴⁶ Drüppel, 'Schwurhand'.

⁴⁷ On Diebold Lauber's workshop and the dating of the manuscript see *Schwabenspiegel*, ed. Derschka, pp. 309–17.

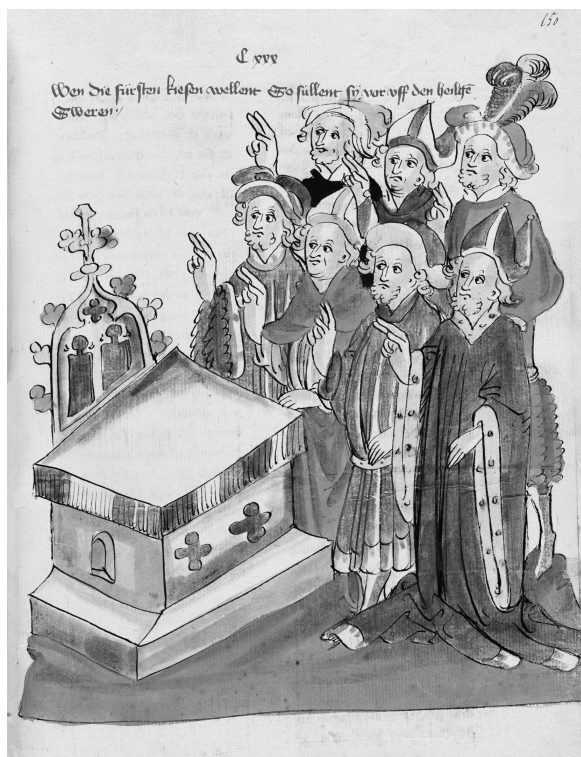


Figure 4. Illustration from the Diebold Lauber workshop *Schwabenspiegel* (c. 1440) depicting the electors of the Empire swearing an oath on holy relics. Bibliothèque Royale de Belgique, Brussels, Cabinet des Manuscrits, ms. 14689–91, fol. 150r

sufficient to show his face and a single hand in the characteristic Trinitarian posture (Figure 5). The voluminous references to oaths in the documentary sources, whatever their purpose (feudal letters, service contracts, alliance treaties, and so on), mention another distinguishing feature of oath-taking: the practice of swearing ‘on holy relics’ (‘uff den heiligen’).⁴⁸ It is unclear whether this formula always reflected what literally took place, or if it might refer more vaguely to oaths made to the saints (i.e. ‘den heiligen’) as well as to God. If relics were used, they would have needed to be readily accessible in the diverse range of circumstances in which oaths were sworn.

⁴⁸ Quotation from ADHR E617 (1476 *Urfehdebrieff*). See also the phrasing ‘an den heiligen’, as in *UBS*, vi, 476 (1393 *Münzverordnung*).



Figure 5. Illustration from the Diebold Lauber workshop *Schwabenspiegel* (c. 1440) depicting a prisoner making a vow. Bibliothèque Royale de Belgique, Brussels, Cabinet des Manuscrits, ms. 14689–91, fol. 216v

One clue as to how this may have worked is offered by a depiction in the Lauber workshop *Schwabenspiegel* of an oath as part of feudal liege-homage ('manschaft') (Figure 6). In addition to adopting the conventional posture with his right hand, the oath-taker is shown touching a small bag—presumably containing the 'heilgen' mentioned in the caption—with his left hand.

Even if relics were not always physically present when oaths were sworn, the prevalence of the formula referring to them and their holy qualities indicates a second widespread characteristic of oaths in later medieval Upper Germany: they were regarded as a religious, even quasi-sacred ritual. The *Schwabenspiegel* mandates certain restrictions on oath-taking which, regardless of whether they were respected, imply that the practice



Figure 6. Illustration from the Diebold Lauber workshop *Schwabenspiegel* (c. 1440) depicting a feudal oath being sworn on holy relics. Bibliothèque Royale de Belgique, Brussels, Cabinet des Manuscrits, ms. 14689–91, fol. 183v

was viewed as a matter of conscience, to be taken very seriously. A male could only take an oath after the age of fourteen, presumably because minors were not deemed mature enough to understand the significance of the ritual and to take responsibility before God for the promises they made.⁴⁹ Oath-taking was theoretically proscribed on certain days, mostly prominent feasts in the liturgical calendar, except where these oaths were part of a peace treaty or reconciliation between parties.⁵⁰ Such restrictions

⁴⁹ *Schwabenspiegel*, ed. Derschka, p. 255.

⁵⁰ *Ibid.*, p. 87.



Figure 7. Illustration from the Diebold Lauber workshop *Schwabenspiegel* (c. 1440) depicting the swearing of oaths before God. Bibliothèque Royale de Belgique, Brussels, Cabinet des Manuscrits, ms. 14689–91, fol. 167r

suggest a strong belief in the divinely sanctioned character of oaths, which were therefore not to be taken lightly. The idea that the ultimate witness to oaths was God himself is supported by another illustration in the Hagenau *Schwabenspiegel*, which shows a multitude of oath-takers performing their ritual in the direct presence of the divine figure seated on a cloud to their left (Figure 7). The caption reads: ‘God allows just oaths and forbids unjust oaths’. Interestingly, a Jew (indicated by his conical hat and alternative posture) is included among the oath-takers, reinforcing the truly universal religious significance of this ritual, which was employed in so many socio-political situations.

Within this imaginary framework, perjury (‘meineid’) and failing to respect oath-bound promises carried with them not only the threat of

earthly consequences (such as fines paid to the lord of the court), but also the threat of divine retribution.⁵¹ Given that oaths were taken before human witnesses, there was also the risk of social stigma and revenge for anyone perceived to have contravened obligations sworn to through this venerated ritual. Accusations of oath-breaking are uncommon in the documentary sources, but those that exist carry with them recriminations of a negative intensity which is rare in the formulaic chancery language of the period. In the inheritance conflict between the brothers Counts Friedrich and Eitelfriedrich of Zollern, taken before mediators at Rottweil in 1421, the latter accused the former of being 'an honourless, unjust, disinherited, and cursed perjurer and murderer... [who] no longer belongs among honourable and pious people, nor to any good thing'.⁵² During Zurich's conflict with the other Swiss Confederates in the 1430s and '40s over Toggenburg, the imperial city was treated by its former allies as an oath-breaker, feeding into the infamously savage propaganda produced by the Confederates against Zurich and its Austrian allies in this period.⁵³ Such reactions are not surprising when it is remembered that oaths, in addition to being rituals of religious and social significance, were also in and of themselves enactments of the agreements upon which political actors relied. In fourteenth- and fifteenth-century contracts in *Urkunde* form, it was not the written document or even the seal(s) which gave legal force to the transaction, but the verbal engagements made under oath to which the document bore witness. Oath-takers therefore had a responsibility to live up to their promises, not only for the sake of their own souls and reputations, but also for the stability of a socio-political order which relied on quasi-sacred oaths as a universal tool for instilling trust and confidence in the myriad interactions and commitments which constituted it.

The oath, then, was not confined to any one type of 'estate' of political actor, or to a particular kind of political formation (towns based on voluntary citizenship, or egalitarian corporations). Nor is it easy to distinguish 'vertical' oaths from 'horizontal' ones, as previous scholars of the Empire's legal culture have tried to do. The many autonomous political actors of the Upper Rhine and Swabia interacted through a spectrum of relationships and transactions which defy organization into these neat categories. In all these interactions, oaths functioned as trust-generating, stabilizing rituals with a symbolic and performative meaning which was widely understood. It is to these interactions themselves, in all their forms (judicial, military, and governmental), that the following chapters will turn.

⁵¹ See *ibid.*, p. 120.

⁵² GLA 46/156.

⁵³ See Hardy, 'The 1444–5 Expedition', pp. 366–7.

2

Arbitration and Para-Judicial Mediation

Arbitration was one of the most conspicuous and pervasive features of political life in Upper Germany. It involved many of the documentary techniques and legal and judicial ideas and rituals examined so far. Based on the archival evidence, the use of designated parties to assist in the resolution of disputes was a convention which affected the entire socio-political spectrum. Many of the surviving documents pertaining to litigation and conflict resolution in the broadest sense were created at the instigation of temporary councils of mediators assembled to deal with a specific dispute, rather than by established, institutionalized courts. A very approximate quantitative impression can be obtained from the abstracts of surviving documents in the Staatsarchiv of Basel: more than two-and-a-half times as many of the disputes of the government and citizens of Basel with external parties appear to have been pursued through arbitral courts (*Schiedsgerichte*) in the 1346–1521 period as through urban or ‘territorial’ courts (*Stadtgerichte*, *Landgerichte*).¹ This is a conservative ratio, since, as will be explored in due course, many of the cases pursued in more institutional court settings were also essentially arbitral proceedings. The surviving records of the margraves of Baden from this period are similarly dominated by *Urkunden* and correspondence produced in the course of mediatory negotiations, because these princes made regular use of arbitrators, and were themselves often participants in arbitral committees.² Judgements from the *Hofgericht* (imperial aulic court) at Rottweil, which, owing to its lack of any means of enforcing its decisions, can be considered an arbitral court of sorts, can be

¹ Based on the 102:38 ratio yielded by the search terms ‘Schiedsrichter’ (seventy hits), ‘Schlichtung’ (twenty-three hits), and ‘Schiedsgericht’ (nine hits) to those matching the terms ‘Stadtgericht’ (fourteen hits) and ‘Landgericht’ (twenty-four hits) within the period 1346–1521 in the catalogue of the Staatsarchiv des Kantons Basel-Stadt: <<http://query.staatsarchiv.bs.ch/query/volltextsuche.aspx>> (accessed 29 April 2017). This figure must be qualified by the potential limitations imposed by the choice of wording in the abstracts and the arbitrariness of what has survived and been catalogued.

² See ‘Bestand 46’ catalogue in the Generallandesarchiv Karlsruhe, especially under ‘Gerichtswesen’. See also, among many other examples, *RMBH*, iii, nos. 5040, 5678, 7438, 7484.

found in every archive in what was once the southern Empire, and in several beyond it.³

Despite its conspicuousness in the sources, arbitrational activity has received relatively little attention in the scholarship of the late medieval and early modern Empire, and the most complete analyses are now very old.⁴ The standard works of legal history have very little to say about arbitration. It is never treated as a topic in its own right, despite the fact that a lot of the justice-seeking (*Rechtsfindung*) and judgement-rendering (*Urteilsfällung*) which these works seek to characterize in the abstract took place in practice at arbitrational meetings (*Gerichte* or *Tage*).⁵ Revealingly, the most thorough investigations into how arbitration worked in practice have been undertaken by historians of associations such as leagues and knightly societies.⁶ Because these were multilateral formations, which transcended any individual power, these historians have had to examine the interactions between multiple political actors and entities, rather than focusing on an individual town or 'territory', and virtually all justice and conflict resolution at this multilateral level was arbitrative. Furthermore, fourteenth- and fifteenth-century treaties of association often stipulated mediatory methods of resolving disputes.⁷ The prevalence of arbitration and other mediatory forms of justice is obvious from the perspective of the sources. That such a ubiquitous phenomenon has largely been neglected in the scholarship is a testament to how little the levels of political activity above that of the 'territory' or region, but below that of the Empire-wide *Reichsverfassung*, have been studied.

Even where arbitration has been acknowledged as an important and widespread practice, it has been interpreted in a narrow way which does not fully apprehend its true extent. Traditionally, a *Schiedsgericht* (arbitrational court) is seen as the opposite of an *ordentliches Gericht* (the institutional court with competence in a given jurisdiction), such that the former was only used when the latter was not available.⁸ This is too neat a view of how jurisdiction worked: the notion that there was a 'correct' court for each case was a constructed one, rather than an objective truth. The jurisdictional

³ See pp. 53–4 for some examples. For an example of the wider activity of the *Hofgericht*, see *RI*, xiii.7, no. 326 (from the Historisches Archiv der Stadt Köln).

⁴ Krause, *Geschichtliche Entwicklung*; Bader, *Entwicklung und Verbreitung*; Brunner, *Land und Herrschaft*, pp. 425–35.

⁵ See Bader and Dilcher, *Deutsche Rechtsgeschichte*; Kroeschell, *Rechtsgeschichte*, ii; Eisenhardt, *Deutsche Rechtsgeschichte*.

⁶ Most, 'Schiedsgericht', pp. 116–53; Obenaus, *St. Jörgenschild*; Proksch, 'Auseinandersetzung', pp. 168–95; Carl, *Schwäbischer Bund*, chs 4, 7; Distler, *Städtebünde*, pp. 142–52.

⁷ On the link between arbitration and associations see Chapter 6, pp. 130–9.

⁸ E.g. Carl, *Schwäbischer Bund*, p. 372.

map of the southern Empire existed only in the competing claims and ongoing negotiations of the various powers which populated it. There were, of course, more institutionalized courts with fixed locations, staff, and sessions: the *Hofgericht* of Rottweil mentioned above, for example, or customary, feudal, and urban courts (*Landgerichte*, *Lehngerichte*, and *Stadtgerichte*), which were run by the more powerful princes, upper nobility, and towns. People who were direct subjects (*Untertanen*) of these powers and under their criminal jurisdiction typically had little resort to other judicial options because they had little political agency and autonomy. However, this was not the position of the political elites. Princes, prelates, patricians, members of the various layers of the nobility, and even leaders of the more independent communes could expect to have at least some say in which court or mediatory committee oversaw the resolution of their disputes. For these elites, arbitration or arbitration-like activity could take place anywhere within a spectrum of judicial and para-judicial settings, which ranged from truly improvised meetings with selected third parties to the more institutionalized and static courts just mentioned. Princes, it is true, had too high a notional status to appear before a customary or feudal court; the main judicial options for them were designated mediatory committees of peers or, occasionally, arbitration by the king or emperor. For other actors, permanent courts might be an option alongside ad hoc committees, and in these cases these courts functioned as third-party arbitrators—the cases brought before them were ‘civil’ in nature, the litigants were not ordinarily subject to the jurisdiction of the court, and the staff of the court had few means of forcing the litigants to appear or to accept their verdicts. In each of these pathways of mediation—established courts and temporary gatherings of peers—the outcome was decided via compromise (‘minne’) or a supposedly binding judgement (‘recht’); the latter, borrowed from vernacular juridical vocabulary, could just as legitimately be delivered by a transient assembly of mediators as by a judge in a permanent judicial institution.⁹ We will encounter examples of all of these scenarios in the course of this chapter, and they invite a wide definition of arbitration and para-judicial mediation as the primary means of working out disputes in Upper Germany in this period.¹⁰

Another problematic aspect of the legal-historical scholarship is the strong theoretical division it posits between the ‘public’ jurisdiction of established courts and the ‘private’ jurisdiction of arbitrational resorts. Thus, the *Lexikon des Mittelalters* defines a *Schiedsgericht* as ‘a court

⁹ On ‘minne’ and ‘recht’ see pp. 50–1 below.

¹⁰ See also further examples of arbitration in Chapters 6 and 9–11.

arranged by contract, which should resolve disputes in the place of the courts based on public jurisdictional authorities'.¹¹ While it is true that some princes (notably the Counts Palatine and the dukes of Austria) were seeking by the late fifteenth century to establish their own courts as the only legitimate judicial institutions in the regions under their notional rule, arbitrational activity should not be seen as less official or 'public' than litigation in established courts. The whole reason for which elite actors resorted to temporarily arranged judicial committees was that there was no widely recognized institution to which they would all willingly submit. The 'correct', 'public' court was therefore whatever resort the concerned parties decided to use in a given case, and these courts (really committees of other political actors encased in the forms and vocabulary of local legal convention) were every bit as 'official' in their reputation, procedures, and outcomes as more static and established judicial bodies. Arguments would be made, verbal and written evidence (potentially including witnesses) would be produced, and judgements would be rendered; and all of this would take place before political peers, as described in more detail below.

A final problematic claim made by the existing scholarship is that arbitrational courts were inferior and undesirable because the process of defining the source of the dispute and choosing arbitrators gave ample opportunity for the 'infiltration of justice by politics'.¹² Leaving aside the dubious assumption that the staff of institutionalized, '*ordentlich*' courts (usually noblemen or patricians) were in some way detached from surrounding political agendas, a large part of the attraction and effectiveness of arbitration was surely that it allowed the parties involved to influence the outcome of a dispute by appointing people sympathetic to their interests as mediators. The prevarication and compromise involved in setting the terms, dates, and composition of a series of court meetings was certainly a political process as much as a judicial one, but that was surely the whole point: arbitration was a channel for negotiating disputes between powers about matters which were often the very stuff of politics, such as land ownership, jurisdictional boundaries, office-holding, and financial and tenurial relationships. Here it is helpful to note Susan Reynolds's reminder that 'our understanding of law at this time may be enhanced if we recognize how indistinct was the boundary between it and politics or administration in general'.¹³

¹¹ Weitzel, 'Schiedsgericht', cols 1454–5.

¹² Most, 'Schiedsgericht', p. 153; Carl, *Schwäbischer Bund*, p. 371.

¹³ Reynolds, *Kingdoms and Communities*, p. 27.

ARBITRATION AND MEDIATION ACROSS THE SOCIO-POLITICAL SPECTRUM

Arbitration should be understood in its broadest possible sense as a form of organized multilateral negotiation, and in this form it constituted a key mechanism by which the political landscape under study operated. The huge variety of actors involved in the mediatory committees and litigating parties mentioned in the sources is in itself an indicator of this role of arbitration as a universal vehicle of political interaction. We have already seen that Basel's citizens and the margraves of Baden and their affiliates were regular providers and users of arbitration, and much the same can be said of other towns, nobles, and princes. Free and imperial cities from Strasbourg to Bern and from Hagenau to Rottweil were all involved in arbitration in the same ways as Basel.¹⁴ It is also worth noting that arbitration was at times provided by the councillors of 'subject' towns like Aarau (under Bern) and Freiburg (under the Austrian dukes), which illustrates the autonomy and political agency enjoyed even by powers which were not imperially immediate.¹⁵ Similarly, noble families from the Rappoltsteiner in Alsace to the Klingenberger in the Thurgau can be observed engaging in exactly the same sort of arbitral structures, often in cases involving both urban and noble actors, insofar as these categories can be disentangled from one another.¹⁶ The evidence for princely involvement in arbitration is stronger still in terms of the sheer number of sources in which princes can be seen mediating or using mediators. A prince like Margrave Bernhard of Baden (1364–1431) can be found using arbitration as a means of resolving disputes involving both stronger powers (principally the Counts Palatine and the dukes of Austria)¹⁷ and comparable or weaker ones (for example, the counts of Württemberg and Hohenberg and the city of Strasbourg).¹⁸ Perhaps because of their superior prestige and resources, the Counts Palatine seem to have been the arbitrators of choice in many high-profile disputes, such as the last phase of the nexus of conflicts called the 'Old Zurich War', the settlement of which was overseen by Ludwig IV in 1450.¹⁹ Naturally, the attractiveness of the Counts Palatine as arbitrators was at its height during Rupert III's tenure of the crown of the Romans (1400–10). It was in this capacity

¹⁴ E.g. AVCUS AA129; SBE D Spezialarchiv FA von Erlach I 360; AMH FF10; *UBR*, no. 1506.

¹⁵ E.g. *USAA*, nos. 323–5; *UBF*, ii, 211.

¹⁶ E.g. *RUB*, iv, 302; SLU URK 46/981.

¹⁷ E.g. GLA 46/262.

¹⁸ GLA 46/193, 248.

¹⁹ *AEA*, ii, 841; see also e.g. AMH FF2.

that he oversaw the negotiations that ended the war prosecuted by the Appenzeller and their allies against the abbot of St Gallen, the duke of Austria-Tyrol, and the society of St George's Shield.²⁰ Although the choice of Rupert in this case was surely due in part to his regional influence and the fact that his daughter was married to Friedrich IV of Austria-Tyrol, it is also a reminder that even royal justice in this period was often arbitrated.

In addition to these conventional members of the elite, the sources attest to the involvement of more unexpected actors in arbitration. Even small rural communes made use of this negotiatory route, usually by means of urban mediators. Evidence for this includes the outcome of a 1466 dispute between the village of Nüwiler and the lesser noble Peter von Eptingen, mediated by the municipal council of Lucerne, and a 1484 case in which two villages south of the *Hochrhein*, Giebelflüh and Ottenhusen, called upon third parties in a disagreement over woodland and pasturage rights.²¹ Prelates were also not averse to employing other powers, including towns and noblemen, as mediators, or to acting in concert with them in arbitral committees. The bishops of Strasbourg, Basel, and Constance were regularly drawn into disputes over properties, rights, and jurisdictions with their neighbours, which were then negotiated through the customary arbitral means used by laymen. Vernacular *Schieds-sprüche* (arbitral judgements) involving episcopal parties were already being created in the 1350s.²² Moreover, the bishops themselves were in high demand as arbitrators for nearby towns and nobles. The (mostly episcopal) prelates of the Council of Basel (1431–49) played an instrumental role in arbitrating between participants in the conflicts that took place on the Upper Rhine in the 1440s, not least the 'Old Zurich War'.²³ Abbots appear in the records of arbitral proceedings with similar frequency. A substantial proportion of surviving *Urkunden* pertaining to the abbey of St Blasien in this period are the outcomes of disputes with—among others—certain citizens of Esslingen, some communes in the Thurgau, and the *Landvogt* in the Aargau, mediated by neighbours like Baden in the Aargau, Zurich, and the count of Lupfen.²⁴ Other documents record occasions when the abbot of St Blasien acted as a mediator for such parties as the towns of the Swabian League, the count of Württemberg, the abbey of Alpirsbach, and the villages of Wasingen

²⁰ USGÖA, ii, 454–6. ²¹ SLU URK 579/31; SLU URK 699/14213.

²² E.g. *UBB*, vii, nos. 211–16; *AEA*, ii, 239–40; ADHR E2502; ADBR G126/5.

²³ See Hardy, 'The 1444–5 Expedition', pp. 373–5.

²⁴ GLA 11/5249, 5367; and two microfilmed documents from 1401 and 1450, formerly in GLA 11, now SZH C V 6.1/28; SZH C V 6.2/54.

and Gosheim.²⁵ Pairis Abbey in south-western Alsace had a long-standing series of conflicts from 1345 into the sixteenth century with the town of Orbey over forestry rights, which saw the intervention of arbitrational committees consisting of nearby nobles like the lords of Rappoltstein, of Rischach, and of Hunigesbach.²⁶ When disputes on the Upper Rhine acquired trans-regional dimensions, more distant powers might be invited to assist in arbitrational processes. In June 1410 the Venetian senate considered sending a representative to assist in setting aside the enmities then extant between the margrave of Baden and the duke of Austria-Tyrol, while in the aftermath of the Swabian War, in October 1499, Duke Ludovico Sforza of Milan acted as one of the mediators in the negotiations between the Swiss Confederates, the bishop of Constance, and others over jurisdictions in the Thurgau.²⁷ This total ubiquity of mediation as a vehicle for negotiation and conflict resolution at every level of political society and throughout the Upper German space reinforces the need to regard arbitrational activity as one of the main pathways of political interaction in this period. It also highlights the need to define arbitration broadly, so that the multilateral, interactive, and connective dimensions of judicial and negotiatory activity, including the activity that took place in more static courts, are not overlooked for the sake of unitary and territorial conceptions of late medieval political processes.

MECHANISMS FOR ARRANGING ARBITRATIONAL PROCEEDINGS

The organization of arbitrational activities confirms the value of treating them as a spectrum of similar methods of judicially framed negotiation. The way in which arbitrational proceedings were planned and initiated can be understood in part through agreements—sometimes called *Anlaß-briefe* ('cause-letters') or *Tädigungen* ('negotiations' or 'counsels')²⁸—between opposing parties which made provision for the choice of arbitrators and sometimes for the location at which the parties and their arbitrators should meet. For example, in 1368 the government of Bern and the bishop of Basel drew up a contract according to which their ongoing disputes would be arbitrated by three knights, namely Henmann von Ramstein, Jakob von Schönaue, and Walter von Bebenheim.²⁹ In 1408 Margrave

²⁵ GLA 11/5512, 5382. ²⁶ ADHR E1545.

²⁷ GLA 46/195; *AEA*, iii.1, 762.

²⁸ See 'Teiding', in *Deutsches Wörterbuch*, xxi, cols 233–7.

²⁹ *Fontes rerum Bernensium*, ix, 112, 212.

Bernhard of Baden and Duke Friedrich IV of Austria-Tyrol contractually agreed to submit their competing claims in the Breisgau to the majority decision of three arbitrators (or their delegates), namely King Rupert of the Romans, Archbishop Johann of Mainz, and Count Eberhard of Württemberg, and it was stipulated that the decision would be made at a session in the town of Freiburg.³⁰ Bernhard also reached an agreement with King Rupert around the same time (1407–8) that they would both use Archbishop Friedrich of Cologne as an arbitrator in their conflict over several castles and monasteries on the banks of the Rhine.³¹ Sometimes such agreements could be very detailed indeed, specifying time limits as well as people and locations. Thus, an *Anlaß-brief* from 1466 states that two opposing parties—the town of Basel and Hans Bernhard von Eptingen—had agreed to continue their dispute over the rights to certain village courts and the incomes of an infirmary under specific mediatory conditions. An arbitral committee would be formed under the bishop of Basel at his court (*Hof*), with two representatives from each party joining him to form a total of five decision-makers, though the bishop would make the final judgement if a majority could not be reached. A one-month period was granted for the delivery of evidence (documents or witnesses) to the committee, a further month for formulating arguments against the other party's evidence, and a final month for coming up with responses to those arguments; two weeks later the bishop would gather together all the presented evidence and arguments and open the final 'arbitration meeting' (*Schlichtungstag*), and the committee would deliver a judgement on the matter.³²

Alongside these formal documents setting out the terms of present or future arbitrations, surviving correspondence from this period gives some insight into the negotiations which led various parties to settle on the location and composition of their arbitral committees. For example, on 27 June 1444 Ludwig von Blumeneck wrote a letter to Smassmann von Rappoltstein on account of their dispute over the castle of Kastelberg, in which he demanded that, 'for the sake of honour and of justice', Smassmann consent to them taking their disagreements before either the bishop of Strasbourg, the Count Palatine, or the margrave of Baden, 'whichever of these three princes is most agreeable to you'.³³ Three days later Smassmann wrote a reply to Ludwig in which he asserted that, because of the wars currently affecting his possessions, he was not able

³⁰ GLA 46/194.

³¹ GLA 46/208–12.

³² SBL AA 1001/0536–7, 0557.

³³ RUB, iv, 23–4.

to ride any distance away, but that he would be happy to see their dispute taken before the *Landvogt* of the lordship of Austria in a nearby town such as Freiburg, Breisach, Neuenburg, or Colmar. Smassmann added that 'no-one could arbitrate more justly in this matter' than the *Landvogt*, since Kastelberg was ultimately an Austrian possession, but that if this was a really disagreeable option for Ludwig then he would also consider seeking mediation 'before my gracious lord of Bussnach, or before the earnest and trustworthy Lord Burckhart Münch, knight, [and] Lord Hans of Múnstraul, or before Hans Knüttel or Heinrich von Núwenfels'.³⁴ By the end of the following month, after further letters in which the tone became progressively less courteous (customary forms of address notwithstanding) and threats of violence in defence of honour were deployed, the two disputants seem to have settled on arbitration by one of the towns in the Breisgau.³⁵ Such exchanges, which in many cases must have occurred orally, either in person or via messengers, demonstrate the extent to which establishing the terms of arbitration was in itself an exercise in negotiation, in which parties tried to manoeuvre their opponents into submitting to the public decision of a committee likely to provide a desirable outcome, or at least a relatively advantageous compromise. We shall see in Part II that associations often specified mandatory pathways of arbitration in their treaties in an attempt to streamline and delimit this unavoidable facet of everyday political life in the southern Empire. The common impression that emerges from all this evidence is that arbitration was organized so as to construct a public, (seemingly) consensual forum for resolving disputes. The employment of arbitral methods signalled that the involved parties were members of the stratum of quasi-autonomous elites within which there was no obvious supreme authority below the imperial monarch, so that these parties had no choice but to rely on their *de facto* peers to resolve their endless proprietary, jurisdictional, and financial conflicts. That is not to say that arbitration was truly equal, fair, or devoid of coercion, just as there were great variations in power and status within the broad spectrum of political elites in the Empire. Rather, given the structural realities of this political space, it formed one of the most viable channels for the dense interactions—conflictual and cooperative—which brought the actors of the region into constant contact with one another. Furthermore, because of their public nature, arbitration and para-judicial formats of mediation continuously advertised their own legitimacy and normativity, encouraging other actors to resort to the same repertoire of forms.

³⁴ Ibid., iv, 24.

³⁵ Ibid., iv, 26–7.

TAGE AND COURTS AS ARBITRATIONAL AND NEGOTIATORY FORA

The negotiatory character of arbitration is also suggested by what we can glean from the procedures of the mediatory meetings themselves. Revealingly, these meetings were called *Tage*—the same generic word which late medieval German-speakers applied to any kind of assembly or governmental committee at which multiple parties might negotiate, from a local encounter between two urban representatives up to the meetings of the imperial estates which came to be known, by around 1500, as *Reichstage*.³⁶ That the concept of a *Tag* had quite general connotations of consultation and negotiation between authorities is evinced by a Zurich chronicler's attempt to articulate what the ecclesiastical Council of Constance (1414–18) was: 'a "tag" and "rat", which is called the "concilio" [*sic*]'.³⁷ From this perspective, the processes followed at the thousands of arbitral *Tage* held between 1346 and 1521 cannot be reduced to a set of rigid legal categories and procedures. They are best understood as open-ended, general patterns of discussion and persuasion by any possible oral or written means, structured conceptually only by a generic judicial discourse. Certainly, this discourse was important, and it placed limits on what could happen in that it invoked certain shared ideas, such as those found in texts like the *Schwabenspiegel*, about how customary legal and arbitral proceedings should occur.³⁸ Arbitral documents commonly assert that the matter was to be decided 'nach minne und recht', a vernacular importation of the canonical formulae *per amorem et justiciam* and *consilio vel iudicio*. This indicates that there were generally understood to be two acceptable paths to an outcome of a dispute submitted to mediators: a negotiated compromise to which all parties consented, or a judgement (*Urteil*) imposed on them by the mediatory committee, who might well be referred to as judges (*Richter*).³⁹

Furthermore, it is common to find vocabularies and formulae in written arbitral outcomes from ad hoc sessions which mimic those of a more institutionalized court: '[the litigants] on both sides, unanimously and intentionally, submitted the same disagreements and disputes to me [the arbitrator], so that I may have full authority in the case [to enjoin] compromise ["minne"] and justice ["rechtes"]', and to that end I have heard the claims, responses, and counter-arguments, and took all this into

³⁶ Dusil, 'Jahr und Tag'; Annas, *Reichsversammlungen*.

³⁷ CSZ, p. 176.

³⁸ E.g. *Schwabenspiegel*, ed. Derschka, pp. 72–6.

³⁹ E.g. GLA 46/248. See Obenaus, *St Jörgenschild*, p. 106.

account...and I issue this verdict...'.⁴⁰ The language of this 1388 *Schlichtung* (mediation) is in many respects comparable to that of a 1424 judgement from the *Lehngericht* (feudal court) in Baden, in which it is said that the judge 'sat over the case', which he wished 'to resolve and judge amicably', to which end 'claims, letters, discussions, the showing of evidence, demands, and counter-arguments took place', and the outcome was to be recognized 'in the form of a compromise ["minne"]' or 'in accordance with justice ["recht"]'.⁴¹ Insofar as this orderly image is a reflection of what really took place at either arbitral *Tage* or feudal courts, it illustrates that the discourses of institutionalized courts (*Landgerichte*, *Hofgerichte*, *Schultheissgerichte*, and others) were also those of ad hoc mediatory meetings. This in turn suggests that '*ordentlich*' courts were not all that different from arbitral committees. It should also act as a warning against imposing overly rigid and legalistic meanings to such contemporary categories as 'judge', 'court', 'case', and 'claim', which had to describe a wide variety of more or less formal activities and institutions.⁴²

Equally, attention should be paid to some of the more informal language present in these same sources. In contrast to the impression of set legal procedures given by some phrases in arbitral documents, the presence of informal language suggests a flexible and negotiatory aspect to what went on in arbitral meetings which is more consistent with the kind of ad hoc, advantage-seeking bargaining observed in the organizational exchanges noted above. One striking usage is the word 'counselled' or 'discussed' ('beredt') to describe the action whereby arbitrators and disputants reached and submitted their decisions (e.g. 'we have discussed among ourselves, that we should and want to hold to the following...').⁴³ It implies a collective, consultative activity which did not necessarily follow a prescribed path, but emerged organically out of the kind of negotiations that might be expected to occur at meetings between acquaintances about a dispute in the presence of other known members of the same socio-political stratum. Comparable terms to 'beredt' in the arbitral sources include 'uberainkomen' ('bargained', or 'came to an understanding') and 'zu gemain man gekommen sind' ('reached a common position').⁴⁴ Sometimes the statement that a conflict was 'arbitrated' or 'decided' ('usgetragen') was preceded by the assertion that it was

⁴⁰ RUB, ii, 260–1.

⁴¹ GLA 21/273.

⁴² For more examples of arbitral and '*ordentlich*' court records with overlapping judicial vocabularies, see e.g. UBS, vii, 815–16, 827; UBR, pp. 494–9 (esp. p. 498); GLA 21/44.

⁴³ GLA 46/101.

⁴⁴ E.g. GLA 46/261.

quite literally ‘negotiated’ (‘gehandelt’) by the present parties.⁴⁵ Less harmoniously, but equally informally, disputes submitted to arbitration can be found described not as procedurally legitimate ‘cases’, but instead as vague ‘tensions’ (‘spenne’), ‘strife’ (‘zwitracht’), or ‘dissensions’ (‘mishel’) between parties.⁴⁶ Against the possibility that a party might seek to continue the negotiatory process after a disadvantageous arbitral decision, some sources rhetorically exhort all those present at a meeting to respect its outcome ‘without any prevarication or counter-argument’.⁴⁷

Unfortunately the sources do not provide much insight into what all this negotiation would have looked like in action; nor do they give the details of the contexts in which the *Tage* took place. It is noteworthy, however, that they almost always occurred in towns, even when no urban officials or patricians were involved in the dispute. Often the chosen towns were mid-sized or large centres of commerce and administration at the crossroads of major travel routes, like Basel, Zurich, Colmar, and Breisach, which suggests that the attraction of urban locations was in part due to their role as local hubs known to all nearby elites, many of whom might have been citizens and owned property there.⁴⁸ As nodal points at which many members of local networks of political actors met on a regular basis, it is not surprising that such towns were popular sites of arbitration—one of the main activities which took place within the very networks to which these towns regularly played host. If the parties in a dispute were all removed from such relatively large centres, smaller towns like Rouffach in Alsace might be used to house arbitral *Tage*.⁴⁹ This indicates that an urban location, however small, was desirable as a physical and social space conducive to the negotiations and rituals which constituted arbitration. A 1378 *Anlaßbrief* between Margraves Hans and Hesso of Hachberg and some citizens of Constance with whom they had a dispute offers a rare glimpse of the more specific spaces which might be used. In it, the margraves suggest having a meeting for preliminary negotiations ‘in public guest houses/taverns’ in Schaffhausen (which, presumably not by coincidence, lay roughly halfway between the margraves’ possessions in the Breisgau and Constance).⁵⁰ The public dimensions and infrastructural advantages of urban buildings such as hostels, courthouses, and town halls, as well as the convenience of towns as social and geographical mid-points and as the homes of neutral scribes, must have made for ideal circumstances in which Upper German powers could seek solutions to their disputes in the presence of socio-political peers.

⁴⁵ E.g. GLA 21/2506.

⁴⁶ E.g. GLA 45/262.

⁴⁷ ADHR E2557.

⁴⁸ See e.g. GLA 46/1552–3.

⁴⁹ RUB, ii, 583–4.

⁵⁰ GLA 46/1538.

This evidence for the contexts in which arbitration took place raises the question of the extent to which more institutionalized and permanent courts, particularly the hugely popular *Hofgericht* at Rottweil, can be considered a part of this shared mediatory and consultative culture of conflict negotiation and resolution.⁵¹ A court like the *Hofgericht* at Rottweil was certainly more established than any ad hoc mediatory committee, and it had its own written *Ordnung* of customary practices from 1435 onwards.⁵² It also enjoyed a more static composition than such committees, and derived a veneer of legitimacy from its link to the king of the Romans, in whose name its judgements were issued. The *Hofgericht's* royal prerogatives also gave it some ancillary powers, such as the ability to place people in the imperial ban (*Acht*), though, judging by the letters sent by the court to various recipients repeatedly requesting that they actually enforce the ban, this does not always seem to have been a particularly effective mechanism.⁵³ However, in its primary jurisdiction and competence—i.e. in its ability to render judgements in the matters of the inhabitants of the Empire—the court at Rottweil differed little from more short-term arbitral committees assembled for the duration of one dispute. Like these committees, the court at Rottweil could only become involved in a dispute if it was first solicited by at least one of the parties involved, and it would then examine the evidence presented to it and come to a decision, with the difference that, while arbitral committees only acted when all parties were present, the *Hofgericht* often rendered judgements in the absence of the defendant (though such judgements *in absentia* were not always very effective).⁵⁴ The 1435 *Ordnung* of the court made provision for all kinds of situations, from two parties willingly submitting themselves to its arbitration to neither party being able to turn up because of a feud, so that the case rested entirely on the plaintiff's proxy and the evidence he or she brought with him or her.⁵⁵ What all these situations had in common was the total dependence of the court on the initiative of the litigants, who were ultimately paying customers using the *Hofgericht* as a channel for obtaining the redress they were seeking, just as they might call on important acquaintances to act as a panel of mediators for the same purpose. Moreover, the staff of the *Hofgericht* at Rottweil did not exist in an objective vacuum, but were themselves members of the regional political elite. The *Hofrichter* were the counts of Sulz—a prominent noble family

⁵¹ On the *Hofgericht* see Scheyhing, 'Das kaiserliche Landgericht', pp. 83–95.

⁵² WLB, HB VI 110. ⁵³ E.g. CDM, ii, 387.

⁵⁴ E.g. in the case of the Zollern brothers in 1421: GLA 46/156.

⁵⁵ E.g. WLB, HB VI 110, fol. 25v–27r.

with interests and connections from Alsace to Lake Constance—and the *Unterhofrichter* and *Urteilsprecher* who staffed the court on a day-to-day basis were to be ‘associates’ (‘genoss[en]’) of the count (noblemen and knights like Eglolff von Wartemberg)⁵⁶ and patricians of the town of Rottweil, whose participation was mandated by the first article of the court’s *Ordnung*.⁵⁷ The official impression given by the court should not disguise the probability that it also functioned as a public forum which facilitated the collective negotiation of disputes, and occasional glimpses of what this less procedurally rigid negotiation might have resembled are interspersed among the more formulaic phrases found in the *Hofgericht*’s decisions (for example, ‘At this point Jörg Rän interjected that...’).⁵⁸ The fact that judgements from the court stress its physical location ‘in the town of Rottweil’s courthouse, on the public, free, imperial road’ is also significant for its role as a well-networked site of negotiation for the regional elite in view of the above-mentioned advantages of such public, urban contexts.⁵⁹ Of course, the legitimacy bestowed upon the court’s image and actions by its link to the Empire and its monarch can only have enhanced its popularity as a negotiatory forum, and there is no reason to see the court’s imperial rhetoric and its flexible, consultative functions as mutually exclusive. The *imaginaire* of the Empire as a living political entity was animated and sustained by the normal interactions, including the arbitrational activities, of the political elite, and the *Hofgericht* of Rottweil was one of the sites at which customary practices and imperial identifications met in a powerful way.

The ubiquitous and interactive character of arbitration has important implications for how the political structures of the southern Empire should be envisioned. It shows that this area lacked an overarching authority capable of organizing and presiding over an administrative and judicial hierarchy, to which all political actors would willingly submit. Instead, it consisted of a multiplicity of competing and overlapping jurisdictional claims, none of which was universally regarded as supreme or authoritative, and these features made it necessary for local powers to consult multiple parties in order to reach compromises in times of disagreement. On the one hand, this corroborates the picture of political and jurisdictional multiplicity and fragmentation generally attributed to the German lands in the fourteenth and fifteenth centuries. However, it also suggests the existence of a common framework of legal and judicial norms and assumptions shared by all those who managed these fragmented jurisdictions (identified here as ‘political elites’: towns, prelates, nobles,

⁵⁶ E.g. SF A1 Ik; GLA 46/1555.

⁵⁸ ADHR E2539.

⁵⁹ Ibid.

⁵⁷ WLB, HB VI 110, fol. 21v.

princes, and some rural communes). The existence of such a common framework attests to a functional parity, or at least compatibility, among these elites in certain everyday spheres of political life, even if they were otherwise highly variegated in terms of their wealth, power bases, social status, and vocations. Examining the voluminous evidence for arbitration shows that this common framework was not just theoretical: in the everyday conflicts caused by overlapping and competing claims to property, rights, and incomes, power-wielders of any status could resort to mediation of one sort or another, often with a reasonable expectation of having some say in the composition of the mediating court or committee. Furthermore, the constant need to resort to third parties in even the most mundane disputes meant that, at the judicial and jurisdictional level, as at many other levels, Upper German elites were mutually interdependent. This interdependence was not confined to a narrow set of legal procedures; the sources for arbitration offer a window into a world of perpetual multilateral consultation and negotiation, which happened to be framed by a judicial vocabulary. With urban hostels and courthouses as their meeting-points, the political actors of Upper Germany were engaged in constant advantage-seeking and consensus-forming discussions, occasioned by the disputes which arose between them with predictable regularity. The *Tage* which acted as fora for this negotiatory culture were so crucial that contemporaries made 'to negotiate at a *Tag*' into a verb—thus we are informed by Colmar's account-book for 1438 that their representative 'meister Andres von Westhusz' was despatched to advise Mulhouse as they 'tagetent' (i.e. were engaged in discussions at a *Tag*) with the Austrian *Landvogt* at Ensisheim.⁶⁰ Against the backdrop of these intensively connective and consultative structures, the associations discussed in Part II can be understood as frameworks intended to regulate prevailing relationships and practices. Before these frameworks can be explored in more detail, however, another facet of the interactive and negotiatory structures of the southern Empire will need to be considered: violence and enmity in the context of feuding and warfare.

⁶⁰ CDM, ii, 82.

3

Feuding and Warfare

Armed conflict was a constant reality for the political elite of the southern Holy Roman Empire. Famously, this area was engulfed by several large-scale military confrontations in the course of the fourteenth, fifteenth, and early sixteenth centuries: the Sempach war and the 'Town War' of the 1380s; the Appenzell war of the 1400s; the 'Old Zurich War' of 1436–50; the so-called 'Second Town War' of the 1440s–50s; the Burgundian wars of the 1470s; the Swiss/Swabian war of 1499; and the Bavaria-Landshut succession war of 1503–5, among others. More significantly, smaller-scale wars and feuds, which might occasionally escalate into major regional conflagrations, were a fact of life for actors with any kind of governmental, jurisdictional, or financial interests and entanglements. Almost all armed conflict in this period, from minor raids to set-piece battles involving thousands of troops, was rooted in disputes over rights, possessions, or incomes between two or more parties. Like arbitrational activity, feuding and warfare were a function of the matrix of claims, debts, and other ties which pushed political actors into regular interaction with one another. Furthermore, there was a generalized acceptance among noble, ecclesiastical, and urban power-wielders that recourse to certain channels of armed conflict as a means of resolving disputes was legitimate, just as the parajudicial activities examined in Chapter 2 were framed by a shared set of customary assumptions and forms. Although some interest groups in the Empire found it advantageous to seek to constrain violence rhetorically and legislatively, feuds and wars were widely used and accepted in Upper Germany throughout this period. That is not to say that violence can be explained in purely functionalist and rationalist terms, or that armed conflicts never exceeded the parameters of what was deemed acceptable, or indeed that these parameters themselves were stable and universally approved. However, the shared, interactive, and mutually intelligible political structures of the southern Empire only make sense if we recognize that certain predictable manifestations of feuding and warfare were a regular occurrence. Many of the assumptions and practices that characterized the political culture of the region were constructed in a way which accommodated and dealt with these configurations of violent conflict.

It is not clear from the traditional historiographical verdicts on late medieval feuding and warfare that armed conflict was a plausible option at all levels of the political elite, or that it was part of a package of negotiatory strategies used in disputes over properties, incomes, and jurisdictions. The grand narrative which links endemic warfare to the growth of the militarized and fiscal nation-state and its acquisition of the monopoly of the legitimate use of violence—commonly associated with France and England, but often presumed to be of general relevance—distorts the political significance of the armed conflicts of sub-monarchical, sub-princely actors.¹ At best, their clashes are said to have been ‘downgraded to private quarrels’ in the course of the later centuries of the middle ages.² Such ‘private quarrels’ have classically constituted ‘feuds’ in western European historiography (versus ‘public’ wars). Although the yields of mid-twentieth-century structural anthropology encouraged some scholars to abandon the pejorative view of feuds as anarchic, atavistic outbursts, ‘private’ conflicts were still until recently understood in terms of a dichotomy between ‘feudal’, uncontrolled autonomy and the civilized, institutionalized state which gradually replaced it.³

In post-war German historiography, late medieval warfare and particularly feuding have been treated in entirely the opposite way. In his influential attempt to rearticulate the ‘medieval constitution’, Otto Brunner placed the feud at the very heart of politics. Far from being proof of the lawlessness of the pre-modern Empire, Brunner argued that the feud (*Fehde*) was its law. In a world in which one’s (aristocratic, quasi-sacred) ‘right’ (*Recht*) was the basis of the entire political system, including the components anachronistically described (in Brunner’s view) as ‘public’ and ‘private’ by modern scholars, the defence and enforcement of that right became the supreme imperative for any politician. As the customary and almost immutable form of legitimate *Recht*-enforcement, the feud was a central mechanism of politics and law for Brunner: ‘only with the feud as a starting point can the inner coherence of politics and the state, of power [*Macht*] and right [*Recht*] in the middle ages be apprehended’.⁴ Since this powerful endorsement of the significance of the feud in the pre-modern German-speaking lands, a veritable scholarly industry has developed around its study. This scholarship has essentially confirmed Brunner’s

¹ E.g. Contamine, *Guerre, État et société*; Guenée, *States and Rulers*, pp. 137–44; Kekewich and Rose, *Britain, France and the Empire*, p. 161; North, *Expansion of Europe*, pp. 355–9. See also Weber, *Wirtschaft und Gesellschaft*, i, 29–31.

² Blockmans, *Power*, p. 170.

³ See summary and references in Netterstrøm, ‘Introduction’, pp. 9–15. See also Elias, *Civilizing Process*.

⁴ Brunner, *Land und Herrschaft*, pp. 1–111 (quotation on p. 108).

view of the feud's importance and his typology of the late medieval practice of feuding and warfare, while nuancing his ideas about the status and objectives of feuding actors.⁵ The challenge to the legality of the feud, on the grounds that it was a cover for the activities of 'robber knights' seeking to assert their control over peasants and supplement their incomes at a time of supposed demographic and agrarian crisis,⁶ has been largely rebuffed.⁷

If the widespread acceptance of the feud is firmly established, it is now also acknowledged that it was a contested and instrumentalized phenomenon, which might function as a strategy for noble self-assertion and in-group social differentiation,⁸ as a vehicle for the expansion and consolidation of princely power-bases,⁹ or as a means for lesser nobles to resist those very same expansionary trends.¹⁰ Another important development has been the recognition that the feud was not solely a component of noble governance. Princely and urban interest groups might at times challenge the legitimacy of the feud,¹¹ while at other times they might engage in feuding themselves.¹² The discovery that even peasants feuded has reinforced the impression that the values and functions of violent conflict were at least sometimes accepted and exploited throughout the social spectrum.¹³ At the same time, the variety of purposes for which feuding was used, and closer attention to both its ritual and functional contexts,¹⁴ have pointed away from Brunner's vision of the feud as an immanent *legal* quality of a Germano-Christian medieval culture and towards its primarily *socially* constructed and deployed uses and meanings.¹⁵ Much of this German feud scholarship treats conflict as an isolated topic, or else as a subsidiary of nobility studies or the history of a 'territory', which means that its place within the wider shared structures of political life as set out above has not been fully explored. However, the shift in the last two decades from an abstract legal-political understanding of the feud

⁵ For an up-to-date survey of this literature, of which the following references are a representative selection, see Reinle, 'Einführung', pp. 9–24.

⁶ Rösener, 'Zur Problematik', pp. 469–88; Algazi, *Herrengewalt*.

⁷ Andermann, *Raubritter*; Reinle, 'Bauerngewalt', pp. 105–22.

⁸ Morsel, 'Fehdepraxis', pp. 140–67; Zmora, *Feud*.

⁹ Zmora, *State and Nobility*.

¹⁰ Konzen, *Fehdenetzwerke*.

¹¹ See Isenmann, 'Diskurs', pp. 335–474, and its extensive references.

¹² Vogel, *Fehderecht und Fehdepraxis*; Krieb, 'Fehden', pp. 57–74.

¹³ Reinle, *Bauernfehden*.

¹⁴ Structural analyses of similar phenomena in the early/high middle ages—e.g. Althoff, *Spielregeln*—have influenced late medieval scholarship, though Philippe Buc's warning against an overly functionalist reading of the sources—Buc, *Ritual*—has kept the potentially mysterious and destabilizing effects of notions such as honour in the analytical equation.

¹⁵ Reinle, 'Einführung', p. 12.

to a sophisticated socio-political one has tentatively indicated its connection to other channels and techniques of conflict and negotiation within and across the variegated groups in the Empire.¹⁶ It is notable that scholars of other parts of late medieval Europe have highlighted similar connections and dynamics in their respective areas.¹⁷

COMMON FORMS AND CONCEPTS OF FEUDING AND WARFARE

The evidence from both Upper Germany and the newest scholarship from other regions of the Empire thus underlines the integral place of certain forms of armed conflict in political life. To make sense of these forms, and their relationship with arbitrational and judicial means of negotiation, it is important to understand the open-ended and related nature of the terminology and concepts which contemporaries used to label feuds and wars. Fourteenth- and fifteenth-century chronicles, contracts, correspondence, ordinances, and treaties all used a group of terms which referred broadly to 'war' ('krieg'), 'feud' ('fede'), 'enmity' ('vientschafft' or 'vighentschafft'), 'damage' ('schaden'), and 'division' ('sto^csse und missehelle' or 'zweyung') interchangeably or jointly to indicate a state of open, potentially violent conflict between two or more parties.¹⁸ The language of feuding and warfare was shared by all groups with a stake in property-holding and the exercise of jurisdiction and government in the Empire, because they might all at one time or another be called upon to engage in some form of armed conflict in order to pursue or defend their proprietary and jurisdictional claims. Since the pursuit or defence of contested claims, rights, and possessions was a necessity for all political actors, almost all armed conflicts—regardless of their magnitude—had similar objectives and were justified in the same interchangeable terms.

Only in this light does it make sense that military struggles of vastly different proportions were understood and articulated through the same cluster of concepts. For example, the words 'stözz', 'krieg', and 'veintschaft' were used in a 1420 arbitration between Freiburg and the *Edelknecht* Conrad Louppen to describe the small-scale hostilities which had erupted between them, and which seem to have consisted of minor

¹⁶ See esp. Jendorff and Krieb, 'Adel im Konflikt', pp. 179–206.

¹⁷ See e.g. Firnhaber-Baker, *Violence*.

¹⁸ Examples from *RTA*, iii, 53; *CDM*, ii, 101; *UBS*, vi, 46.

acts of arson and theft.¹⁹ These same terms—in the formula ‘vehde, kryeg, und vigentschafft’—were used in a 1460 peace treaty to label the multi-party conflict between Count Palatine Friedrich I on one side and the bishop of Mainz and the count of Leiningen on the other,²⁰ in which both sides are said to have fielded ‘enormous armies’, with the cavalry alone numbering 4,000, at a pitched battle at Pfeddersheim.²¹ Conflicts of a magnitude which fell between these two extremes, such as Strasbourg’s struggle against its bishop for jurisdictions and possessions in the 1410s–20s and against the clients of the margrave of Baden in 1430–1, were similarly described (in this case in official correspondence) as ‘kryeg, stözz und unwillen’, ‘vientschaft, unwillen und bedrang’, and ‘vigentschaft und kriege’.²² In the mid-fourteenth century, when feud declarations, truces, and reconciliations were still sometimes recorded in Latin, the conflicts were described in analogous terms. Thus, a 1351 truce-letter between Mulhouse and one ‘Heinricus, dominus de Bevar’ declares that it was created because of ‘controversie et discordie’—the equivalent of ‘sto^esse und missehelle’.²³ Feuding and warfare were evidently understood as a spectrum of similar armed conflicts, the nature of which remained the same regardless of their magnitude. Brunner’s notion of an inherently aristocratic belief in and propensity for the feud is not convincing, since this shared vocabulary of hostility was used by non-noble actors too. It seems that involvement in the political life of the southern Empire—through the ownership of properties and lordships, or claims to such units of jurisdiction, revenue, and government—necessarily entailed certain forms of conflict, which therefore came to be seen as a related group by the entire political elite.

The commonly acknowledged organizing principle which signalled the legitimacy and shared purpose of this spectrum of conflicts was the notion of ‘enmity’—‘vientschafft’, or *inimicitia*. This word was not only clustered together with other terms for conflict (‘vehde’, ‘krieg’, and so on), but was deployed in a precise way to signal a state of legitimate, potentially violent dispute over claims and in defence of honour. Raiding, feuding, and warring could easily be denounced as unlawful if it was not understood by the involved parties and their peers that these activities were being undertaken within the framework of a state of justified enmity. In a sense, enmity was both the master concept for and the gateway into all forms of armed and violent conflict, and it was in terms of enmity that German-speakers articulated all political conflicts fought by warlike means. For

¹⁹ *UBF*, ii, 295–6.

²⁰ *UGKF*, no. LXXII.

²¹ *QGDS*, ii, 34.

²² *UBF*, ii, 298; *RTA*, ix, 465–6, 508.

²³ *CDM*, i, 232.

example, the Strasbourg chronicler Jakob Twinger described Edward III's war of 1341 against Philip VI in this way: 'the king of England declared the king of France his enemy, and moved into France with a large army'.²⁴ In the 1470s Charles the Bold's opponents referred to him in their correspondence as 'the enemy ["feind"] of the German nation'.²⁵

This situation of open 'vientschaft' was conventionally initiated through seal-authenticated declarations of enmity, called *Absagebriefe*, *diffidationes*, or even simply 'vintsbriefe' ('enmity-letters').²⁶ Such letters, which survive in large numbers in urban and princely archives, typically accomplished two things. First, they enumerated the grievances held by the sender against the recipient, or else explained the opening of hostilities on the grounds of an alliance, contract, or some other tie with an existing enemy of the addressee. Often this enumeration was accompanied by a survey of the attempts by the enmity-declaring party to seek satisfaction or redress for their proprietary, financial, or jurisdictional claims or injuries by means of arbitration and negotiation. The rhetorical strategy of enmity-letters tended to be to present the resort to rightful violence as a result of the obstinate and unjust refusal of the recipient to accept a negotiated solution in a court or at a *Tag*. The second component of most *Absagebriefe* was an appeal to the honour of the enmity-declaring party, with the suggestion that this could only be preserved through the opening of hostilities to achieve redress. For instance, in 1449 Count Ulrich V of Württemberg initiated hostilities against the town of Esslingen through a letter which referred to the municipal government's decision to levy a new toll in their town; their refusal to negotiate over this toll despite the intercession of Ulm, the Count Palatine, and other parties at successive 'gutlichen tagen'; and their alleged complicity in the killing of a retainer and a bondsman of the count over what the letter called 'a blameless matter'.²⁷ The letter concluded that, in view of these outstanding matters, 'we [Count Ulrich] wish to be your and your supporters' enemy, and in this way we have safeguarded our honour against you and your supporters with this, our public letter'.²⁸

Such declarations of enmity and their justification by reference to negotiations, alliances, and honour were widely practised and understood by all the major and minor political actors of the southern Empire. While it is true that the majority of surviving enmity-letters were written by lesser nobles, enough survive from other sources to indicate that the conventions

²⁴ *COS*, i, 474. ²⁵ *FUB*, vi, 87. See Chapter 11, p. 227.

²⁶ Andermann, 'Absagen', pp. 25–57. On *diffidationes* in Anglo-French contexts see Kaeuper, *War*, pp. 226–9.

²⁷ *AUWG*, p. 47.

²⁸ *Ibid.*

of feuding and warfare were shared more widely. Quasi-princely figures like the counts of Württemberg and the margraves of Baden were prolific enmity-declarers throughout this period.²⁹ Towns and rural communes also issued more *Absagebriefe* than the historiography would suggest. There is firm evidence that this occurred several times between the fourteenth and early sixteenth centuries, the most active declarers being Bern, Zurich, and Schwyz.³⁰ However, these Confederate communes were not alone in sending enmity-letters—Basel and Colmar did the same to some Alsatian noblemen in 1462.³¹ In 1415 King Sigismund's placement of Duke Friedrich IV of Austria-Tyrol under the imperial ban led to hundreds of declarations of enmity against the Habsburg prince by former Austrian subjects and associates, including dozens of towns and even monasteries.³² Though few direct *Absagebriefe* survive from bishops, they often became formal enemies of those who threatened their allies and possessions. The bishops of Strasbourg are an obvious example. They were embroiled in near-constant feuds and wars from the 1330s onwards,³³ with enemies ranging from the counts of Zweibrücken-Bitsch (1350s and '80s) and the margrave of Hachberg (1385)³⁴ to the town of Strasbourg (1410s–20s, in the so-called 'Dachstein war')³⁵ and the duke of Austria (1497).³⁶ The involvement of monastic lords in wars can also be attested. The abbot of Murbach was drawn into enmities and military alliances in the 1390s, 1410s, and 1460s.³⁷ It may be revealing of just how intimately such men might become entangled in armed conflict that the mid-fifteenth-century Benedictine reformer Johannes Schlitpacher felt the need to admonish abbots who carried swords and wore armour.³⁸ Given that a major premise of enmity-based conflict was the defence or pursuit of rights, possessions, or governmental functions, even ecclesiastical actors who held or exercised these could not escape the conventions and the practice of 'vientschafft'.

Even kings of the Romans pursued their wars within the Empire according to these practices and discourses, which supplemented and channelled the more official mechanisms theoretically at their disposal.

²⁹ E.g. *RMBH*, i, nos. 1773, 2247, 2347–8, 2367, 2371–2; *GHW*, ii, Beilage 70–1; *ibid.*, iii, 78.

³⁰ E.g. Burgerbibliothek, Bern, Mss.h.h.XLI.7 (32); Carl, *Schwäbischer Bund*, pp. 480–1; SBS SLL/St-Urk Bundbuch fol. 162v.

³¹ *RUB*, iv, 292–3.

³² See Schuler-Alder, *Reichsprivilegien*, p. 47, referencing the repository of these *Absagebriefe* in Vienna. See Chapter 10, p. 204.

³³ ADBR G121.

³⁴ GLA 46/1562.

³⁵ Dollinger, 'La Ville libre', ii, 128.

³⁶ *UBF*, ii, 624–5.

³⁷ *RUB*, ii, 342; *ibid.*, iv, 297.

³⁸ See his 'Interrogatorium' in Bayerische Staatsbibliothek clm 19638, fol. 54–102.

In March 1403 intractable disputes over the ownership of certain castles led King Rupert to declare that Margrave Bernhard of Baden was both his enemy and an enemy of the Empire, which forced the latter to the negotiating table two months later.³⁹ The bloody 1499 war between King Maximilian and the Swiss Confederates began as a dispute over advocatial jurisdictions which escalated into localized violence. At a conference in Constance in January 1499, the Swabian League's leading members recognized this conflict as a formal enmity, and intervened—according to a record of the meeting—as allies of Maximilian 'in his capacity as archduke of Austria'.⁴⁰ Though Maximilian declared a pan-imperial war against the Confederates in April 1499, the bulk of the fighting was done by his Swabian League allies, who were offering what they articulated as 'hilff und bystand'—the traditional terms for assistance in a feud.⁴¹

The rhetorical, ritual, and social implications of honour—that second component of enmity-declarations—evidently applied to all political actors too, for princes and towns also insisted in their *Absagebriefe* that, in initiating a state of enmity, they were defending their 'ere' against their opponents.⁴² Just as noblemen had to appear to be worthy and capable stewards of their rights and possessions, and were prepared to resort to expensive feuds in order to maintain their reputation among their peers,⁴³ so too did the towns, bishops, and other actors with a stake in the proprietary, financial, and jurisdictional structures which constituted the shared political world of the imperial elite. If municipal governments did not deploy exactly the same discourses as the aristocratic groups living alongside and among them, they at least overlapped when it came to the language of honour. The formulaic terms of address for the governments of free, imperial, and subject towns referred to 'the honourable and wise mayor and council' of the recipient, while urban representatives at *Tage* were similarly described as 'honourable' ('erbern').⁴⁴ When noblemen swore citizenship-alliances with imperial cities, their contracts included a promise 'to promote the town's honour and renown'.⁴⁵ The honourable and noble status of bishops was equally important in their formulae of address. The bishop of Constance can be found described as 'honour-worthy' ('erwirdig'), while the bishop of Strasbourg's name was often

³⁹ GLA 46/206–7, 479a, 607. ⁴⁰ UGSB, i, 273.

⁴¹ Ibid., i, 354. See the discussion of these terms in Chapter 6, p. 125.

⁴² E.g. RUB, iv, 293. Detailed insights into various actors' participation in a shared economy of honour around Nuremberg are offered by Pope, 'Relations', pp. 15, 43, 59, 62, 137.

⁴³ See esp. Zmora, *Feud*.

⁴⁴ E.g. AMC AA53; UBF, ii, 295.

⁴⁵ 'Fehde', ed. Mone, p. 176.

preceded by a catalogue of honorific adjectives: 'the highly-worthy, illustrious, high-born prince and lord bishop'.⁴⁶ The ubiquity of the language of honour and reputation can partly be explained by the intimate connection of many ecclesiastical and urban actors to nearby noble families. However, it also suggests a widely shared conceptual relationship between honour-worthiness and worthiness to possess properties and rights and rule over subjects—a worthiness that might need to be defended by force in order to be maintained in the eyes of the many other members of the southern Empire's sprawling political society. If, as Hillay Zmora has rightly emphasized, violent conflict should not be divorced from the ritualistic value systems and dynamic hierarchizing processes encoded in the notion of honour,⁴⁷ neither should honour be decoupled from claims to properties, revenues, and jurisdictions, which were the institutional building-blocks of political authority, and which always played some part in justifying the feuds and wars of nobles, prelates, and towns alike.

None of this is to say that princes, clerics, and burghers unanimously and consistently accepted the necessity and legitimacy of violence. The activities inherent in feuding and warfare—looting, arson, abduction, and killing—were the subject of growing criticism in public correspondence and political tracts, often by reference to discourses of Christian morality, the common weal, and orderly government, and this criticism became the focus of reformist agendas at the imperial assemblies.⁴⁸ The concept of honour could be appropriated by actors on the receiving end of enmity-declarations and turned against the declarer to delegitimize his feud. For example, in 1451–2 the government of Colmar bombarded its contacts in Alsace with complaints that Walther von Thann had become its enemy ('vigende') without any good reason, which was 'against God, honour, and justice'—a widely used formula in this period.⁴⁹ However, this apparent opposition to feuding has to be set against the voluminous evidence of widespread participation in violent conflict noted above. In that light, complaints and polemics against feuding and warfare are best understood as discursive strategies through which princely, clerical, or urban actors sought military assistance or advantageous legislative and institutional change, rather than as authentic manifestations of alternative political worldviews formulated in opposition to an inherently violent noble culture.

⁴⁶ *RCDFIII*, i, no. 323; ADBR G153/2.

⁴⁷ Zmora, *Feud*, *passim*.

⁴⁸ Isenmann, 'Diskurs'.

⁴⁹ *RUB*, iv, 130–1, 165. See Pope, 'Relations', p. 151.

THE INTERRELATIONSHIP OF FEUDING, NEGOTIATION, AND SOCIO-POLITICAL NETWORKS

The conventions and practices of certain forms of feuding and warfare were widely shared across the political spectrum because these forms were embedded in and intertwined with other structures of negotiation and association. Violent enmities typically ran their course alongside and in connection with mediated contestations in court-like settings, and both the armed and the judicial parts of such conflicts were undertaken with the assistance of associates, peers, and other political actors to whom the disputing parties were connected. In the first instance, enmity was a tool to be deployed after negotiations had failed to yield a desired result, especially if a party's honour or credibility might be perceived to have been slighted by the decisions taken by courts or the opinions voiced in *Tage*. For example, the 1395 enmity-declaration of Wolf von Wunnenstein ('known as the glistening wolf'⁵⁰) against Strasbourg asserted that he had sought his 'reht' through mediators, and that he would happily have ridden to appointed 'tagen' to discuss the restitution of what he felt he was owed by the town for damage inflicted to a possession of his, but that since Strasbourg had ignored him he had no choice but to become its enemy.⁵¹ The justification of enmity on the basis of the recipient's obstinate refusal to take part in fair negotiations is so common in the sources that it could almost be described as a *topos* of *Absagebriefe*.⁵²

The initiation of enmity did not signal the end of negotiations, however. On the contrary, it was an alternative means of pushing for a favourable negotiated outcome—now backed by the imminent threat of violence, and the involvement of any groups allied to the enmity-declarer. Whether they ended quickly because of asymmetries in the military power of the competing sides, or dragged on because both parties and their allies were determined and able to attempt to end the contest by force, feuds and wars were always ultimately resolved by negotiated means. Peace or reconciliation treaties (*Sühneverträge*) not only brought an end to the legitimate use of violence, but also contained lists of agreed terms which all parties had to respect, resulting from deliberations between their representatives and generally favouring the side(s) which had emerged in the more dominant position from the raiding, fighting, and diplomatic

⁵⁰ *UBS*, vi, 560.

⁵¹ *Ibid.*

⁵² E.g. *CDM*, ii, 313; see p. 61 above.

manoeuvring. Margrave Bernhard of Baden, for example, was adept at using the conflicts in which he prevailed to ensure that he negotiated access rights (*Öffnungsrechte*) to dozens of castles in and around his core possessions.⁵³ Sometimes peace treaties were brokered by one or more third parties, whose mediation helped to facilitate proceedings and enhance the legitimacy of the outcome, but naturally they also introduced the interests and agendas of yet more actors into the negotiatory process. For example, the 1420 feud between Freiburg and Conrad Louppen was ended through the arbitration of Anna of Brunswick, dowager duchess of Austria, with the additional counsel of the abbot of Murbach, the margrave of Hachberg, the count of Thierstein, and several lesser nobles.⁵⁴ A detailed settlement was negotiated, whereby damages were compensated on both sides and Louppen's paternal inheritance was restored to him, and all of this was articulated in the same vocabularies and frames of reference as the arbitral *Schiedssprüche* discussed in Chapter 2. If a key figure on one side in a conflict had the misfortune of being captured, he could bargain for his freedom by swearing an oath of release (*Urfehde*) to end his feud and keep the peace on his captors' terms. Such arrangements were given documentary authentication in treaties, and these reveal that third parties were often involved as intercessors and guarantors. For example, in 1413 four enemies of the lordship of Austria and its then-subject town Freiburg, the brothers Dietrich and Hanman Eppli, Jakob Bnyder, and Merckli Winstein, had their release negotiated by a group of lesser nobles and patricians, who confirmed through oaths and seals that they would supply hostages to Freiburg in order to guarantee that the four perpetrators would respect the terms of the treaty.⁵⁵ In 1420 Counts Friedrich and Ostertag of Zollern entered into extensive correspondence with Rottweil in order to secure the release of their cousin Hans Ott and his retainer. The town asserted its right to hold them, since they were captured in the field during a feud against it and its ally the count of Fürstenberg, and in due course the matter was referred to an arbitral *Tag* overseen by the count of Hohenberg.⁵⁶ The resolution of feuds and wars thus resembled arbitration in a number of respects, and indeed relied on the very same mediatory conventions and institutions—the designation of courts or *Tage* for deliberation, the involvement of interested third parties, and the negotiation of terms which aimed to resolve the issues of contention. If enmity-based violence stemmed from a temporary failure of arbitral processes, and had potentially destabilizing effects in the

⁵³ Krieb, 'Fehden', pp. 59–62.

⁵⁴ *UBF*, ii, 295–8. For other similar examples see *RMBH*, i, no. 2385; *RUB*, iii, 446–8.

⁵⁵ *SF A1 IIc*. ⁵⁶ *UBR*, nos. 668a–8n.

short term, it was those same processes which brought phases of violence to an end in due course. Furthermore, the declaration, management, and resolution of feuds and wars were carried out using the same widely accepted mechanisms of contractual interaction and decision-making which we have already seen in relation to judicial, arbitrational, and oath-based procedures. Violent conflict and para-judicial proceedings are therefore best understood as two interlocked strategies of negotiation deployed almost in tandem to channel and work out the constant frictions produced by Upper German elites' everyday interactions in matters of government, property, finance, and jurisdiction.

It will be evident by now that the princes, prelates, nobles, and communes of the southern Empire did not develop and maintain approaches to conflict and negotiation in isolation. Rather, common approaches arose because these actors were in perpetual contact with one another. In this politically fragmented yet deeply interconnected world, which lacked a dominant power capable of formulating and imposing clear, vertically integrated hierarchies and institutional frameworks, it was necessary for elites to relate through widely accepted and intelligible languages, practices, and assumptions. The multi-directional relationships which existed within and between elite groups meant that no single claim or contest could ever be negotiated by the two immediately concerned parties alone. Counsellors and arbitrators—often political powers in their own right—would soon be involved on behalf of both sides in any para-judicial affairs, while allies (*Verbündete*), helpers (*Helfer*), and backers (*Gönner*) would inevitably be drawn into any phases of violent enmity.⁵⁷

Any given dispute was therefore encased in a web of relationships, each of which connected it to any number of other ongoing conflicts and interactions. This is clear from a famous feud that took place in central Alsace in the early 1460s, which culminated in the destruction of the castle of Hohkönigsburg by a Basel-led coalition in 1462. In the light of the mechanisms of feuding explored in this chapter, such events appear more complex, but ultimately also more comprehensible, than traditional accounts of inevitable conflict between discrete groups (in this case, the mercantile burghers of the Alsatian plain and the robber barons nestled in the fortified crags of the Vosges) would allow.⁵⁸ The sources pertaining to the key actors involved in this event point to a nexus of related claims, enmities, arbitrational proceedings, and contractual and dynastic relationships and associations spanning the 1450s and '60s. These extended beyond the immediately concerned parties of Basel's government and its feud-enemy,

⁵⁷ See Schäfer, 'Fehdeführer', pp. 203–20.

⁵⁸ Haug, *Haut-Königsbourg*, pp. 12–13.

Reinhard Mey von Lambsheim, to include, among others: Reinhard's brother Heinrich and one Anthonige von Hohenstein, both co-tenants of the castle, which was a royal pledge; Dietrich von Ratsamhausen, Reinhard's brother-in-law; the bishop of Strasbourg, a member of Basel's coalition but also a key arbitrator in the litigious fallout that followed the castle's siege; and Smassmann von Rappoltstein, who became involved both because of his feuds against the Ratsamhausen-Hohenstein affinity and because of his service contract with Count Palatine Friedrich, who also joined Basel's coalition.⁵⁹

It is easy to see how common structures for the initiation, pursuit, and resolution of conflicts, and for the communication of the interests at stake in these conflicts to wider audiences, were needed for so many actors to be capable of pursuing overlapping disputes and agendas in a way which made sense to all the parties involved in a complex scenario like this one. It is also not difficult to see how these structures were endlessly replicated and sustained as long as the Upper German political landscape retained the fragmented, polycentric character which gave rise to such scenarios. The associative political culture which grew out of these structures and framed the interactions of the actors who shared in them will be discussed in Part II. First, however, a final component of the shared set of practices, discourses, and values of the southern imperial elite needs to be considered: structures of lordship and administration.

⁵⁹ These sources include *RUB*, iv, 288–301; *UBB*, viii, 56–62, 87, 101–3, 133–7; *UGKF*, no. XXXIV; SBS SLL/St-Urk hintere Canzlei DW. 138_1; SBS SLL/St-Urk geh. Reg. P I. H_1–7; SBS HA/St-Urk/1816.

4

Lordship and Administration

Upper Germany's commonly noted 'landscape of political and territorial fragmentation'¹ was rooted first and foremost in its structures of lordship and administration. The building-blocks of governmental authority in the fourteenth and fifteenth centuries—lands, properties, or other assets, and the various forms of jurisdiction tied to them—were divided up among many autonomous elites. Few areas of the southern Holy Roman Empire were integrated within anything resembling closed political units, and even the more coherent lordships were managed by local agents with power-bases, titles, and connections of their own. The forms of land and income tenure, office-holding, and governmental delegation in these regions all fostered the lateral distribution of lordship and administration across sprawling networks of elite actors, whose affiliations and competences involved them in multiple overlapping social and political spheres. The whole spectrum of elites, from electors like the Counts Palatine to minor knightly and burgher families like the von Stein of the southern Black Forest and the Offenburger of Basel, was involved in these dispersed, network-dependent structures.²

Rights, possessions, jurisdictions, and revenues were not distributed evenly among the elites of the southern Empire—some actors, notably princes, were far more powerful than others. The complexes of lordship ruled by the most prominent of these princes might become linked to abstract identifications, such as 'of the lordship of Austria'³ and 'of the Rhine Palatinate'.⁴ By the latter half of the fifteenth century these princes were also becoming the foci of an upper layer of regional institutions which exercised an organizing effect on the smaller, scattered fragments of property, revenue, and jurisdiction. However, these centripetal factors should not be overstated in view of the evidence to be examined in this chapter, which shows that the basic components of lordship (assets,

¹ Scott, *Economic Change*, p. 12; Scott, *City-State*, p. 148.

² E.g. *FUB*, ii, 369, 462; Gilomen-Schenkel, *Henman Offenburg*.

³ *UBB*, v, 128.

⁴ *UGKF*, no. VI.

revenues, and local jurisdictions) were highly mobile, overlapping, and divided between multiple interest groups. The evidence does not suggest that princes were somehow different from other political actors, even if they generally held greater concentrations of powers and lordships, and princes were certainly not the rulers of discrete states. This chapter is devoted to analysing this evidence of fragmentary yet connective lordship. This is partly necessary because it underpinned the other structures examined so far, and the associations which emanated from them. It is also necessary because the features of lordship and administration emphasized here have received minimal attention from historians working within the paradigm of *Landesherrschaft* and the rise of the princely 'territories'.

In most post-war scholarship of the Empire the study of lordship and administration in the German-speaking localities has been dominated by a focus on principalities and so-called 'territories'. This emphasis stems directly from the 'territorial' conception of the Empire itself, according to which the political landscape of central Europe was constituted by a patchwork of consolidated units, most of which were ruled by members of the so-called 'princely estate' (*Fürstenstand*) that emerged in the high middle ages.⁵ The supposed end point of this 'territorialization' (*Territorialisierung*) of the Empire was the group of princely *territoria clausa*, endowed with sovereignty (*superioritas territorialis*, *Landeshoheit*), established in the Peace of Westphalia.⁶ The later middle ages form a key phase in this legal-political trajectory, for it was in the fourteenth and fifteenth centuries that the princes allegedly 'came to stand for a new reality: that of the emerging territorial state ["Flächenstaat"]'.⁷ In this scholarly context, the use of *Landesherrschaft* as a catch-all term for the characteristics and processes of later medieval lordship and administration neatly expresses the assumption that these characteristics and processes were all tied to increasingly centralized, institutionalized, and territorialized conceptions and configurations of political power, from which the modern territorial state eventually emerged.⁸ The *Landesherrschaft* paradigm has led to a great deal of work on princes and their central institutions, and to a lesser extent on other 'territories' comparable to those of princes, such as those of certain cities.⁹ The focus of scholarship on lordship and administration

⁵ Patze, *Territorialstaat*; Arnold, *Princes and Territories*; see Introduction, pp. 6–7.

⁶ Riedenauer, *Landeshoheit*.

⁷ Kroeschell, *Rechtsgeschichte*, ii, 181.

⁸ E.g. Willoweit, 'Landesherrschaft', p. 66; Leisering, *Die Wettiner*, p. 26. N.B. in this connection the influence of Brunner, *Land und Herrschaft*, pp. 357–440. See also Brady, *Histories*, pp. 97–106.

⁹ E.g. Cohn, *Government*; Blickle, 'Territorialpolitik', pp. 54–71; Krimm, *Baden und Habsburg*; Bader, *Territorialstaatliche Entwicklung*; Reichert, *Landesherrschaft*.

has therefore been disproportionately oriented towards an upper layer of 'princely' institutions, such as the court, the chancery, and the *Landgericht*, and the (in practice very gradual and incomplete) expansion of the control exercised by these institutions over the lower levels of administration in the localities.¹⁰

It is not wrong to focus on these 'territorial' institutions and developments, which were key drivers of the long-term changes experienced by the Holy Roman Empire. However, an important corollary of this emphasis has been the tendency to view more basic and widespread components of lordship and administration, such as fief and pledge tenure and local office-holding, solely through the distorting lens of *Territorialpolitik*, even though—as we shall see—these institutions and practices were by no means the sole preserve of princes.¹¹ The *Landesherrschaft* approach to political history has not been without its critics, notably Ernst Schubert, who has pointed out that modern German medievalists have anachronistically employed a politicized 'territorial' vocabulary which was actually fashioned by seventeenth-century jurists.¹² The supposed solution to this anachronism—Brunner's autogenic, custom-derived *Land*—has also been found wanting, since this word only had 'territorial' resonances in sources from Upper Austria and Bavaria.¹³ However, Schubert's proposed alternative to *Landesherrschaft*—*fürstliche Herrschaft* ('princely lordship')¹⁴—is not much more useful for large areas of Upper Germany, since this concept is confined to government as it was exercised by princes. The sources from the southern regions of the Empire are replete with examples of nobles, clerics, and burghers acting as lords and administrators with at least some degree of autonomy from princely figures. These sources also attest to the constant, often quasi-horizontal interaction involved in the exercise of lordship by all these actors. A broad and comparative approach which encompasses the basic components of lordship and administration is therefore needed in order to shed light on the common ways in which all kinds of elites operated in this political landscape, which was less hierarchical and more interconnected and dynamic than existing models allow.

¹⁰ E.g. Droge, 'Finanzverwaltung', pp. 325–46; Schlunk, 'Landeshoheit', pp. 53–77; Quarthal, 'Territorialbildung', pp. 61–86; Paravicini, Hirschbiegel, and Wettlaufer, *Hof und Schrift*.

¹¹ E.g. Landwehr, 'Reichs- und Territorialpfandschaften', pp. 155–96; Willoweit, 'Landesherrschaft', pp. 71–9, 83–6.

¹² Schubert, *Fürstliche Herrschaft*, pp. 51–2.

¹³ *Ibid.*, pp. 60–1.

¹⁴ *Ibid.*, pp. 106–7.

GRUNDHERRSCHAFT
AND GERICHTSHERRSCHAFT ACROSS
THE SOCIO-POLITICAL SPECTRUM

At the most fundamental level, much lordship in the southern Empire is said to have rested on what German-speaking scholars call *Grundherrschaft*: seigneurial forms of authority over, and revenue extraction from, lands and properties and their inhabitants. It is difficult to estimate the relative importance of *Grundherrschaft* as a basis for political power, and the extent to which different kinds of elites participated in it, because there is debate about the types and patterns of lordship encompassed by this concept, and because the configurations of landed governance and the vocabularies used to describe it in the later medieval Upper German regions exhibit considerable diversity.¹⁵ Some scholars have argued for a division between lowly *Grundherrschaft*, deriving from smaller properties and authority over peasant tenants, and 'higher' jurisdictions and powers which are thought to have constituted a different category of lordship: *Gerichtsherrschaft*.¹⁶ This category comprises those forms of authority traditionally associated with princes, such as the right of safe-conduct (*Geleit*) and capital jurisdiction. From this perspective, the *Grund-/Gerichtsherrschaft* distinction is in many respects comparable to that made between *la seigneurie foncière* and *la seigneurie banale* in French scholarship.¹⁷ In any event, what is clear is that by the twelfth century, local 'public' judicial and fiscal powers had become a function of 'private' property. Units like villages, small towns, and castles became heritable, and land and property owners acquired jurisdictional authority and other rights over many of the free and unfree residents of their lands and properties.¹⁸ It therefore seems that the high middle ages were a time of classic manorialism: the authority-conferring units were fairly stable and coherent, and they were ruled directly by lords or their representatives.¹⁹ These men presided over income collections and judicial proceedings at designated sites within each unit, often called the *Hof* (with many more specialized variations: *Dinghof*, *Zehnthof*, etc.).

In order to understand lordship in the period covered by this book, it is important to take account of the way in which many of these units became

¹⁵ Droege, 'Grundherrschaft', pp. 209–13; Pohl, 'Die ständische Gesellschaft', p. 254; Scott, *Society and Economy*, ch. 6.

¹⁶ Schubert, *Fürstliche Herrschaft*, pp. 64–7.

¹⁷ See e.g. Barthélemy, *L'ordre seigneurial*.

¹⁸ See Kaminsky, 'bonum commune', pp. 117–18.

¹⁹ Droege, 'Grundherrschaft', pp. 209–13.

increasingly disaggregated in the course of the thirteenth and fourteenth centuries. Combinations of properties, revenues, and governmental powers were in many cases dispersed among multiple lords.²⁰ Through contractual exchanges such as inheritance, purchase, pledging, or enfeoffment, the formerly united components of manorialism could be divided up among any number of owners and exercisers. These components could include houses and gardens; fields; mills; rents and tithes (*Zinse, Zehnten*) paid in cash or in kind; village courts; lower and occasionally higher jurisdictions; the benefit of *corvées* and other services owed by locals; and various seigneurial prerogatives such as forestry, hunting, and fishing rights. At the local level, some of these components were acquired by villagers with modest means. In 1401, for example, the bondswoman Adelheid 'the dairywoman' and her daughter owned the 'upper half' of the *Hof* of the village of Dunningen in the Black Forest, from which they paid a 2 fl. rent to the Holy Cross Chapel in Rottweil.²¹ More significant clusters of assets and jurisdiction were typically divided up among wealthier and more powerful owners, making for very diverse arrangements of lordship in any given zone. A good example is provided by Mireille Othenin-Girard's meticulous study of the area notionally under the authority of the *Vogt* of Farnsburg, a castle in the Aargau which was in the hands of the lords of Thierstein-Farnsburg until 1461, when it passed into the lordship portfolio of the municipal government of Basel. Othenin-Girard has shown that no fewer than eleven prominent lords of one sort or another owned assets, revenues, and rights within this *Vogtei* (an area consisting of a few dozen acres of hills and fields) in the fourteenth and fifteenth centuries. These lords included the canons of St Martin in Rheinfelden, who from the 1360s onwards enjoyed an expanding catalogue of rents in several villages and controlled the *Hof* of Kilchberg. They also included the noble lords of Kienberg, whose already minor possessions at the edge of the *Vogtei* in the mid-fourteenth century—a quarter of the *Hof* in the village of Buus and a few acres of land in Kilchberg and Tecknau—had all but disappeared by the end of the fifteenth.²² This landscape of diverse lordship, in which most villages, castles, small towns, and agricultural lands consisted of clusters of assets and powers divided up among various lords, was made possible through widely accepted methods of exchange. The archives of the Upper Rhenish area, for instance, are replete with transactions from the fourteenth and fifteenth centuries in which properties, lands, rents, and rights and jurisdictions changed hands

²⁰ Rösener, *Grundherrschaft*, *passim*.

²¹ UBR, p. 259.

²² E.g. Othenin-Girard, *Ländliche Lebensweise*, pp. 185–223.

in some way, either directly or through some sort of broker (often town courts).²³ In the later middle ages, what historians call *Grundherrschaft* was thus really a vast array of endlessly fragmenting and combining assets which could be exchanged, wholly or in part, through contracts between anybody with the means to become involved in such transactions. Assets of any kind are often generically called 'guot' ('good(s)') in the sources—an indication that diverse properties, revenues, and jurisdictions, handled by a variety of different owners and lords, were understood to belong to the same common set of tenurial, commercial, and governmental conventions.²⁴

In that *Grundherrschaft* involved the ownership or exercise of agglomerations of properties, revenues, and jurisdictions, it was not so different from other forms of lordship and administration in the southern Empire. The use of transactions via conventional *Urkunden* and the conception of lordship as a list of assembled rights and possessions were also characteristic among wealthier and more powerful princes, towns, bishops, and lords who owned large tracts of land, exercised multiple levels of jurisdiction in several places, and presided over large networks of vassals, pledgees, and officers. This can easily be appreciated by comparing the language used in localized transactions which would traditionally be understood as manifestations of *Grundherrschaft* with the terms found in enumerations of 'higher' lords' possessions and spheres of governmental competence. When in 1481 the bishop of Metz sub-enfeoffed one 'Cladeß, lord of Warammont' with the two castles of Geroldseck and the small town of Masmünster, the document specified that the fief came with 'the higher court of the same, with the people and jurisdictions, higher and lower, the rights of ban, the hillside and pasturage rights, the forestry rights, waterways, fruits and meadows, and all other seigneurial powers, rights, and appurtenances which belong to the above-named castles, town, and villages, whatever they are named and wherever they are situated'.²⁵ When, forty-four years earlier, the margrave of Hachberg was granted the office of *Landvogt* in the western possessions of Duke Friedrich IV of Austria-Tyrol, and thereby became the representative of the most powerful prince in the south-western Empire, his sphere of competence was similarly expressed as an abridged list of assets and powers: 'Furthermore, he [Hachberg] should defend and administer as best as he can all our lands and people and all our ecclesiastical houses and the advocatial jurisdictions pertaining to them, and all [other] things in the same lands of ours which

²³ See the case studies of the Bock family and Guémar with references on pp. 84–7.

²⁴ E.g. Othenin-Girard, *Ländliche Lebensweise*, p. 469.

²⁵ *RUB*, v, 244.

belong to them'.²⁶ Likewise, a 1415 *Lebensbrief* issued by King Sigismund's chancery to the margrave of Baden articulated the grants made to this prince by the crown as a list of scattered items: '[Margrave] Bernhard... has humbly requested of us, that we enfeof him according to feudal law with towns, castles, markets, villages, tolls, mints, and all other utilities and appurtenances, liberties, hunting and safe-conduct rights, customary courts, and Jews, together with all the other fiefs, vassalships, and feudal items of the margraviate of Baden and his other lordships'.²⁷ Even the relationship between the dukes of Austria and their elite subjects was expressed in terms of itemized prerogatives and incomes on both sides, in a manner reminiscent of the above lists of components of manorial lordship, rather than as abstractly and neatly defined vertical authority. For example, the 1491 charter of liberties issued by King Maximilian in his capacity as archduke of Austria to the citizens of Freiburg promised to respect their accumulated 'favours, freedoms, privileges, letters [detailing the town's properties, jurisdictions etc.], customs, and good traditions', while reserving for the archduke his access to 'all our rights and jurisdictions, rents, and revenues, which belong to us by right or by custom'.²⁸

The widespread expression of lordship and administration as varied catalogues of possessions, powers, and privileges suggests they were understood to belong to a spectrum, regardless of the specific components, such that a prince or 'territorial lord' did not have a different conception of the nature of property and government from more modest actors. Indeed, it would not have made sense to distinguish some forms of lordship and administration from others. In the fragmented Upper German political landscape, it is hard to discern powers which were clearly the preserve of one category of political actor. Capital jurisdiction, for instance, was exercised by towns as well as by bishops and princes, and could sometimes be wielded at a very lowly, localized level. In 1450 the knight Berchtold von Schellenberg was invested with higher jurisdiction over the small Black Forest town of Hüfingen—'both the stocks within it and the gallows in front of it'—as part of a fief granted by Count Heinrich of Fürstenberg.²⁹ An even more extreme case is represented by the leaders of the village of Gersau by Lake Lucerne, who claimed to have received the privilege of higher jurisdiction within their commune from King Sigismund in 1418 and 1433.³⁰ Higher jurisdiction and so-called *Gerichtsherrschaft* more generally was not therefore a separate category of authority wielded solely by princes in possession of *Landgerichte*, but was just another right which could be collected by, and confer lordship upon, any political

²⁶ GLA 46/1702.

²⁹ FUB, iii, 297.

²⁷ GLA 36/2091.

³⁰ RI, xi, nos. 3470, 9724.

²⁸ UBF, ii, 582.

actor or community. Even *Geleit*—the right of safe-conduct—occasionally found its way into the hands of non-princely powers. In 1399 the municipal government of Strasbourg purchased various offices on the right bank of the Rhine as pledges from the counts of Hanau-Lichtenberg, attached to which were powers of safe-conduct in the districts within the offices' remit. The pledged offices were redeemed by the counts in the fifteenth century, but the redemption contract made no mention of the *Geleit* rights, so Strasbourg continued to maintain that it held these into the mid-sixteenth century.³¹ The relatively weak upper nobleman Count Rudolf of Sulz received the regalian rights of *Geleit* and control of the mints and tolls at Laufenburg and Rheinau as a fief from King Sigismund in 1430.³² Rights over ecclesiastical institutions were similarly widely held. Advowson was common in Alsace and Swabia, where many noblemen counted the status of 'kilcherr' (ecclesiastical patron) for local parish and collegiate churches among their accumulated rights.³³ More substantial advocatial jurisdictions over the possessions of abbeys and other foundations were also common among the middling and higher nobility, for whom monastic *Vogtei* rights had become heritable assets.³⁴ Such powers were as mobile as any other, and could change hands over time. The abbey of Pfäfers, on the uppermost stretches of the Rhine in the diocese of Chur, was under the advocacy of the counts of Werdenberg-Sargans for most of the fourteenth century. The abbot bought back the *Vogtei* in 1397, and his ownership of this right was confirmed by King Rupert in 1408. However, when the Swiss Confederates acquired the former assembled rights of the counts of Sargans in 1483, the abbey recognized their prerogative to exercise the *Vogtei* powers jointly over it.³⁵

Clearly, then, all possessions, incomes, and rights—whether we classify them as manorial, jurisdictional, regalian, advocatial, or in some other way—were part of a spectrum of contractually defined lordship-conferring assets which could be owned, enjoyed, and exchanged by and among any elite actor, regardless of his or her precise status. These common features suggest that elites articulated and treated elements of lordship in the same way: as accumulations of comparable items—even as combinable commodities of sorts. To borrow a useful but forgotten analogy from Georg Wilhelm Sante, configurations of later medieval lordship can be imagined like chemical molecules. Both are composed of a discernible subset of elements. Though these might bond together in a variety of different forms and sizes in different circumstances, producing different outcomes,

³¹ Schaab, 'Geleit', p. 406.

³² GLA D/664.

³³ E.g. *RUB*, v, 125.

³⁴ Mühleisen, *St. Peter*; GLA D/678, 21/6593.

³⁵ Bischof, 'Pfäfers (Kloster)'.

the constituent elements remain essentially the same.³⁶ Even the strongest Upper German actors did not govern well-defined territorial units of an ontologically different nature to the power-bases of their weaker neighbours; rather, they possessed amalgamations and concentrations of properties and rights, mediated through tenurial and office-holding relationships with locally based elites.

CREDIT NETWORKS AND INTERRELATED FORMS OF TENURE AND OFFICE-HOLDING

Both the shared system of itemized lordship in the southern Empire and the interpersonal ties between those who exercised this lordship were enabled by advanced financial practices. If some forms of tenure and lordship delegation, like fiefs, could operate somewhat independently of financial exchanges, many others—rents, sales, pledges, salaried offices, and service contracts—were underpinned by them. Furthermore, many possessions and fiefs actually consisted of rents paid in cash and raised on fields, mints, mills, and other assets.³⁷ In addition to fixed incomes, rapid and adaptable means of raising or conveying funds, usually via credit, gained widespread popularity among the political elite in the course of the fourteenth and fifteenth centuries, spurred on in places by the depressed value of crops and the inflation caused by the devaluation of coinage.³⁸ ‘High’ finance as it was conducted by princes and merchants in urban capital markets has a long research tradition.³⁹ However, it is only in the last couple of decades that other actors, especially the middling and upper nobility, have been acknowledged as key players in the dense financial networks of Upper Germany.⁴⁰ Political elites with lands or jurisdictions could at times be in a good position to raise and lend money, since they had access to rents and assets that could be sold or used as collateral. At other times they might be in acute need of credit, since they had expenses unique to their station: larger-scale feuds and wars, the provision of sizeable dowries and jointures, and the day-to-day ostentatious demonstration of wealth and honour. This was especially true of the most powerful lords like the Counts Palatine, the bishops of Constance, and the

³⁶ Sante, *Geschichte*, i, 28.

³⁷ E.g. *CDN*, nos. 147, 188, 194, 211, 252, 262, 348, 395.

³⁸ Gilomen, ‘Rezension: Markus Bittmann’, pp. 751–2.

³⁹ E.g. Schulte, *Handelsgesellschaft*; Stromer, *Oberdeutsche Hochfinanz*; Fouquet and Gilomen, *Netzwerke*.

⁴⁰ E.g. Bittmann, *Kreditwirtschaft*; Burgard et al., *Hochfinanz*; Fuhrmann, ‘Adeliges Wirtschaft’, pp. 73–101.

counts of Württemberg, whose escalating courtly and military expenses saw their borrowing and indebtedness rise dramatically throughout the fifteenth century and into the mid-sixteenth.⁴¹ In lending money to or purchasing assets from one another, political elites became entangled through shared financial engagements. Often these ties extended beyond the two main parties in a given transaction to include others who stepped in as guarantors (*Bürgen*). A large number of surety contracts (*Schadlosbriefe*) involving burghers and nobles alike have survived from this period.⁴² Typically they obliged a group of guarantors to uphold the (re)payment due by the purchaser in a given contract. In 1365, for example, Lord Hesso Snewlin, a citizen of Freiburg, had his 140 fl. payment for a rent from Count Haug of Fürstenberg backed up by five knightly and noble guarantors, including the *Schultheiss* (chief magistrate) of Schaffhausen.⁴³ The financial transaction behind this exchange of an item of lordship thereby drew Haug and Hesso into a wider network of interested parties. On a larger scale, in February 1448 Margrave Wilhelm of Hachberg became a co-guarantor, along with two lesser nobles, Hans von Gießen and Jakob von Goldenberg, of a 4000 fl. debt owed by the administration of the dukes of Austria-Tyrol (Albrecht VI and Sigmund) to the municipal government of Zurich, and the three men agreed to pay interest on the dukes' behalf until August of the same year.⁴⁴ We have already seen that Hachberg was an independent upper nobleman who acted as an officer for the Austrian princes; *Bürgschaft*-contracts like this one indicate that these sorts of ties between autonomous powers might also acquire financial layers, and draw in lesser actors (like von Gießen and von Goldenberg) in the process.

Still more important in drawing assets and rights, financial stakeholders, and interpersonal ties together into matrices of lordship and administration was the practice of pledging or hypothecating (*Verpfändung*).⁴⁵ Pledging allowed possessions, revenues, offices, and jurisdictions to change hands, as a whole or in part, in exchange for financial commitments. Sometimes pledging took the form of a distinct category of tenure, called a *Pfandschaft*, in which an item was granted in return for a loan, or as a fulfilment of existing or future financial obligations, under conditions which allowed the grantor to redeem the item in question after a certain period of time for an agreed price. For example, in 1424 Margrave

⁴¹ Zmora, *State and Nobility*, pp. 42–4.

⁴² For a typical example of a *Schadlosbrief* see *REC*, iv, 145.

⁴³ *FUB*, ii, 260.

⁴⁴ GLA 21/166.

⁴⁵ Two key survey articles on this topic are Krause, 'Pfandherrschaft', pp. 387–404, 515–32; Zmora, 'State-Making', pp. 37–63.

Bernhard of Baden granted the castle of Grafentheim and the enjoyment of all its appurtenances to Friedrich von Cham 'in the manner of a "pfand"' in return for a 950 fl. loan.⁴⁶ The contract specified that Bernhard would not attempt to redeem the *Pfandschaft* for the duration of his life, and that his heirs would have to give a quarter-year's notice if they wished to do so. Any redemption payment was to include the original loan plus the cost of maintaining and improving the castle; this sum could only change hands at an appointed location in the town of Wissembourg. Until that time, Bernhard was to be allowed to garrison men in the castle, but also had to provide Friedrich with assistance in defending it in times of war. Entire towns could also be leased out in this way. In June 1384 Bishop Imer of Basel pledged the town of Porrentruy to the municipal government of Basel for 4000 fl., and simultaneously pledged half of the town's citadel, with its higher and lower jurisdictions, to Hans-Ulrich von Hasenburg in lieu of repayment of a debt of 1000 fl. that he owed to this lord.⁴⁷ A more modest example of a pledge being used to pay outstanding liabilities is provided by a 1393 transaction between a citizen of Rottweil, Conrad 'the ram', and his son Johann. He had purchased several assets and the office of *Vogt* over the town of Villingen from Lord Eglolff of Wartemberg, who in turn held them as a fief from the abbot of Gengenbach. In order to help cover the costs of his purchase, Conrad pledged these possessions and rights to Johann for 40 fl., with the condition that he could not attempt to redeem them until almost a year had elapsed.⁴⁸

Alongside *Pfand(schaft)*-contracts were transactions in which the proprietary, financial, or jurisdictional items changing hands were described as 're-purchasable' ('widerko'ffig').⁴⁹ Older German scholarship agonized over the legal distinction between these labels, as well as other types of pledge-contracts, but Hans-Georg Krause has convincingly argued that the differences between them were unimportant, a point made by the Freiburger jurist Ulrich Zasius (1461–1536) in the early sixteenth century.⁵⁰ Taking a broad, synthesizing view of the different forms of redeemable exchanges reveals their enormous importance to all configurations of lordship and intergovernmental relationships in the southern Empire. Absolutely any item of lordship could be involved in such transactions, from a 9 fl. rent in the village of Baldingen, co-owned by the count of Fürstenberg and two local judicial officers and pawned to a citizen of Rottweil for 180 fl. in 1467, to the office of *Reichslandvogt* in Alsace, which was pledged by King Sigismund to Count Palatine Ludwig III

⁴⁶ GLA 46/389.

⁴⁷ *MHAEB*, iv, 443–6.

⁴⁸ *UBR*, p. 226.

⁴⁹ E.g. *FUB*, iii, 462.

⁵⁰ Krause, 'Pfandherrschaft', pp. 529–32.

for the astronomical sum of 50,000 fl. in 1423.⁵¹ The latter was only the largest of a huge number of pledges issued by Sigismund in the Upper Rhenish area—among others—during his reign, mostly to repay a variety of supporters for rendered services and extended loans.⁵² Sigismund's father Charles IV had also had extensive recourse to pledging as a financial instrument, especially in the earlier years of his reign.⁵³ Until around 1440, therefore, pledging was an important mechanism not only in shaping the financial and lordship-based relationships of local elites to one another, but also in linking their interests and resources to the crown. The conditions surrounding pledges and the objectives of the pledge-givers and receivers might have varied considerably across space and time in the later medieval Holy Roman Empire, but the principles and conventions underpinning the pledge remained the same. These were in keeping with the itemized, commoditized conception and practice of lordship and administration we have already encountered in relation to actors from across the socio-political spectrum.

The mobile, interconnective, and compatible characteristics of pledging applied equally to other forms of tenure and the relationships they entailed. Indeed, there were sometimes few qualitative differences between pledges, fiefs, and offices. The German vocabulary surrounding *Lehen* (fiefs), for instance, though subject to considerable terminological variation and a notional hierarchy (the *Heerschildsordnung*), seems to have described a framework for the tenure of a particular item or group of items, without necessarily having any wider implications for the relationship between the grantor and recipient.⁵⁴ *Lebensbriefe*—the sealed contracts which confirmed the grant of a fief—were similar to the contracts used to document the granting of pledges, with the difference being that the grant was made 'in fief' ('zu lehen') rather than 'in the manner of a pledge'.⁵⁵ While the language in feudal contracts formulaically declared the loyalty and service of the recipient (the vassal, or 'man') vis-à-vis the fief-granting lord ('herr'), specific obligations were rarely stipulated.⁵⁶ The key difference between pledges and fiefs was that the latter did not have to entail a payment. However, it is worth noting that, as with *Pfandschaften*, a *Lehen* could consist of rents and other incomes as well as or instead of lands, or other properties and rights.⁵⁷ Sometimes the granting of a fief entailed a payment on the part of the recipient, and sometimes the items granted in fief could be turned into a pledge. In 1481,

⁵¹ *FUB*, iii, 387; *RI*, xi, no. 5447.

⁵² E.g. GLA D/646, 649, 657; *CDM*, ii, 7, 10–11.

⁵³ Krause, 'Pfandherrschaft', pp. 399–403.

⁵⁴ Patzold, *Lehnswesen*, p. 107.

⁵⁵ ADHR E2378.

⁵⁶ As spelled in *ibid*.

⁵⁷ See the examples in note 37 above.

for example, Johann von Perroy sold incomes and jurisdictions in Sigolsheim in Lower Alsace which he held in fief from the lord of Rappoltstein to one Wilhelm Boeckell for 600 fl. 'in re-purchasable manner'.⁵⁸ Such contracts were, in practical terms, no different from *Pfandschaften*. Fiefs could also be just as mobile as pledged and freely sold items of lordship and administration. For example, it was possible to transfer the tenure of a fief from one tenant to another. Thus, a contract from 1401 declares that 'I, Claus Ulrich, steward of Hasenburg, assign to the sound and pious knight Lord Werner of Rosenvelt, *Landvogt* of Montbéliard, my fief: a quarter of the wine and corn tithe-rents at Illfurt, which my father... held and enjoyed as a fief from the See of Basel'.⁵⁹ The flexibility of feudal contracts meant that they were by no means restricted to the landed nobility. It has been calculated that, from the mid-fourteenth century onwards, the largest group of recipients of royal fiefs after the princes was burghers, including not only patricians, but also guildsmen and families ineligible for entry into municipal councils.⁶⁰ Prominent clans like the Snewlin of Freiburg and the Ziboll of Basel also received numerous fiefs from lords other than the crown, like the dukes of Austria.⁶¹ Even the daughter of the late Burkart Ziboll, Ursula, can be found in 1437 receiving a fief (in fact, a *Pfandlehen*—'fief in pledge form') from the Austrian *Landvogt* consisting of a *Dinghof* and an advocatial office in Uttental and a part of the toll and safe-conduct rights at Frick.⁶²

The large number of pledges and fiefs that included offices and jurisdictions among the items they conferred is an indication that the dividing line between forms of tenure and office-holding was also blurred. The titles of 'amptleute' (officials),⁶³ namely *Vogt* (*advocatus* or *ballivum* in Latin),⁶⁴ *Schultheiss*, or *Pfleger*, all developed from high medieval judicial offices which had once been held on the basis of service to a lord (primarily by *ministeriales*) but had become commercialized, mobile, and heritable items by the mid-fourteenth century.⁶⁵ This is not surprising considering the copious evidence we have seen that revenues and jurisdictions in general, such as those linked to manorial lordship, underwent this shift. The principle extended to offices themselves. Pledges granted 'in the manner of an officer', for example, were effectively pawned offices, which conferred the functions and competences of the position on the recipient of the pledge.⁶⁶ We have already seen that Sigismund issued large numbers of imperial offices as pledges during his reign. Regional

⁵⁸ *RUB*, v, 256–7. ⁵⁹ *MHAEB*, v, 178.

⁶⁰ Patzold, *Lehnswesen*, p. 109.

⁶¹ E.g. *UBF*, ii, 135; GLA 21/8370, 8434.

⁶² GLA 21/8375.

⁶³ As spelled in *MHAEB*, iv, 602.

⁶⁴ E.g. *RUB*, ii, 547.

⁶⁵ Willoweit, 'Landesherrschaft', pp. 81–2.

⁶⁶ Krause, 'Pfandherrschaft', p. 396.

actors also exchanged offices among themselves in this manner. For example, in 1453 Margrave Karl of Baden purchased half of the jurisdictions pertaining to the position of *Landvogt* in the Ortenau from the bishop and cathedral chapter of Strasbourg.⁶⁷ Offices could also be given in fief, another type of grant that was often expressed as being 'in the manner of an officer'.⁶⁸ In 1434 Lord Smassmann of Rappoltstein acknowledged that one of his officials was allowed to collect all revenues under his purview 'for as long as he holds this office in fief from me'.⁶⁹ Indeed, the distinction between offices and fiefs could be so unclear as to provoke confusion. In 1356 the abbot of Murbach requested that the recipient of the position of *Schultheiss* of Merxheim, a knight called Krafft von Ungersheim, clarify that he had received it 'not as a fief, but as an office'.⁷⁰ What this shows is that office-holders were not so much the delegated administrators of districts as the managers of defined agglomerations of assets and rights which were, whether on a temporary or permanent basis, a part of their *mouvance*. An office did not define a political actor, who might well have several other titles and roles; rather, it became another item in his or her patrimony. Only this conception of offices could allow someone like the bishop of Strasbourg to purchase the temporal office of landgrave of Alsace and its appurtenant *Landgericht* from the counts of Oettingen, as occurred in 1359, or prompt an institution like a municipal council to hold fiefs and offices, as the municipal government of Strasbourg did in the town of Wasselnheim for much of this period.⁷¹ The position of *Landvogt* for the dukes of Austria in Alsace, the Sundgau, and the Breisgau was always held by autonomous, imperially immediate actors like the lords of Rappoltstein, the counts of Lupfen, and the margraves of Hachberg.⁷² For important and minor offices alike, it was by no means mandatory for the recipient to be a vertically subservient subject of the grantor.

This is not to say that there were no responsibilities at all for office-holders vis-à-vis the lords they represented, though it is worth remembering that many positions were ultimately held from the Empire, and entailed only notional obligations to the usually distant king. It is clear that, by the late fifteenth century, officials in the core lands of powerful princes like the Counts Palatine and the dukes of Austria were subject to more intensive expectations, both in terms of the administrative functions they performed and the extent to which local resources were

⁶⁷ HZB, vi, 335–6.

⁶⁸ Willoweit, 'Landesherrschaft', p. 89.

⁶⁹ RUB, iii, 386.

⁷⁰ ADHR 9 G Lad. 85 N° 1.

⁷¹ ADBR G97; Wunder, *Gebiet*, p. 57.

⁷² RUB, ii, 595; RI, xi, no. 2519; GLA 46/1702.

supervised by and funnelled towards the embryonic central organs of princely government.⁷³ By this time pledged offices were usually subject to more restrictive conditions, which shortened the periods of tenure and facilitated the grantor's ability to redeem pawned items.⁷⁴ The financial and social rewards of princely service were also sufficient to entice local noblemen to enter into more restrictive service contracts (*Dienstverträge*) as part of, or alongside, office tenure.⁷⁵ However, since the teleology of the nascent territorial state has dominated the way in which office-holding has been understood so far, this relatively late consolidation of the relationship between princes and officers must be set against the much more diverse and decentralized impression given by the more general evidence of how *Amtleute* treated their offices.⁷⁶ Ties between the grantor and recipient of an office created one strand in the relationship between two actors whose interactions might otherwise have been far more complex—and less clearly hierarchical—than those of an overlord and a subject. In this sense offices did not herald a new era of centralized territorial power, but formed part of a spectrum overlapping with pledges, fiefs, and the many other seal-authenticated, oath-bound contracts that framed relationships between elites in the southern Empire. Just as items of lordship themselves were conceived of as a continuum of comparable assets, incomes, and rights, so too the tenurial relationships which bound the grantors and recipients of these items to one another were part of a spectrum of customary ties, into which any elite actor—urban, noble, or ecclesiastical—might enter.

THE FRAGMENTATION, MOBILITY, AND INTERDEPENDENCE OF LORDSHIP

One of the most significant features of this spectrum of lordship-conferring ties was that, like the system of finance and exchange which facilitated it, it generated a great deal of interdependence among political actors. The recipients of possessions, revenues, or rights inevitably had to forge relationships with other power-wielders in the area where those items were located, particularly—as we have seen in several cases so far—when only a part of a *Hof*, a town, a rent, or a cluster of jurisdictions was received by an actor. Furthermore, even a single item of lordship

⁷³ Cohn, *Government*, pp. 235–42.

⁷⁴ Krause, 'Pfandherrschaft', p. 391.

⁷⁵ Zmora, *State and Nobility*, p. 61.

⁷⁶ For a 'territorial' conception of office-holding, see e.g. Willoweit, 'Landesherrschaft', pp. 81–104.

might be granted to more than one tenant. It was very common for fiefs to be granted communally ('in gemeinschaft') to multiple members of a family. For example, in 1483 Richart von Altnach and his cousin Rudi von Brunikoffen were jointly invested by the bishop of Basel with a fief consisting of shared ecclesiastical patronage ('kilchensatz') in Altnach, the shared enjoyment of half of its tithe, and the shared use of nearby woodland. Throughout the contract they were called 'fief-comrades' ('lehensgenoss[en]').⁷⁷ This same principle could be extended to offices; in the 1350s the brothers Counts Conrad, Johann, and Heinrich of Fürstenberg all shared the functions of the office of landgrave of Baar, and several later generations of the dynasty saw the same position shared between two siblings.⁷⁸ Such joint configurations are significant, because members of the same family were by no means guaranteed to cooperate, and the custom of partible inheritance often gave them each a power-base of their own. Lords Smassmann I and his brother Ulrich VIII of Rappoltstein were constantly fighting one another, to the detriment of the many settlements in central Alsace in which they had mutual entanglements.⁷⁹ Such shared lordship might extend beyond the confines of a dynasty. In 1427 the municipal governments of Bern and Solothurn jointly purchased the landgraviate of the Buchsgau from their citizenally Lord Johann of Falkenstein. Their purchase contract asserted that thereafter the office and its appurtenances 'should belong communally to both towns, Bern and Solothurn, with half going to each'.⁸⁰ From these sorts of contracts it was only a short step to the 'collective lordships' of the Swiss Confederates, a cluster of *Vogteien* which were administered jointly in the Aargau after 1415, and which are often cited as a constitutional peculiarity in pre-modern Europe.⁸¹

In order to appreciate the full extent of the mobility and dispersal of items of lordship and administration and the financial, proprietorial, and jurisdictional interdependence that these configurations generated, it is helpful to end this chapter with some more sustained case studies. Two representative cases for which data is available for the fourteenth to early sixteenth centuries will be considered here: that of a line of actors within a family, and their fluctuating powers and possessions; and that of a single location, and the various interconnected lords who owned property, collected revenues, and exercised jurisdiction there. The former case is one branch of the noble Bock dynasty of Strasbourg. All living representatives of this family can be found in the membership lists of the city's *Constofler*—the exclusive patrician guild—from the 1390s, and many sat

⁷⁷ *MHAEB*, v, 591–3.

⁸⁰ *MHAEB*, v, 270.

⁷⁸ *FUB*, ii, 192.

⁷⁹ Sittler, *Maximin*, pp. 83–91.

⁸¹ Holenstein, 'Gemeine Herrschaften'.

on the large and small municipal councils.⁸² The line consisting of four successive generations led by men called Ulrich Bock survived the purge of the majority of the *Constofler* which followed the war against the bishop of Strasbourg in the 1410s–20s,⁸³ and one member of a subsequent generation even became mayor in 1481.⁸⁴ Across eight generations, this line of the Bock family enjoyed an extensive portfolio of properties, revenues, and jurisdictions throughout Lower Alsace, in addition to its assets and influence within Strasbourg's city walls. Its members at times exercised offices—notably that of *Vogt* of Strasbourg itself—and appointed minor officers of their own to manage their scattered possessions.⁸⁵ The importance of joint fiefs and pledges, mostly within the dynasty but occasionally also outside of it, as in the case of the half of Obenheim held jointly in fief by Ulrich III and Georg Bock and Eberhard von Mullenheim,⁸⁶ is clear from the surviving records of feudal investitures concerning the Bock family.⁸⁷ So too is the prevalence of sub-infeudation, notably courtesy of the lords of Lichtenberg, a practice which also cemented mutual connections and dependencies by introducing an interested intermediary party into the management and distribution of items of lordship.⁸⁸ The diversity of lords from whom the Bocks held or acquired assets and rights is striking, ranging from the dukes of Lorraine in the west to the dukes of Austria in the east.⁸⁹ In their capacity as tenants of portions of the imperial fief of Blaesheim, they were also technically imperially immediate.⁹⁰ Wider still was the range of actors, from princes to peasants via lesser nobles and cathedral canons, with whom the Bocks undertook sales, pledges, and other exchanges.⁹¹ Ulrich Bock IV was an advisor to the margrave of Baden, and he and other family members may have carried out similar services for other nearby powers for which the evidence has been lost.⁹² The many roles and ties of this line of nobles-cum-patricians attest to the importance of conceiving of lordship first and foremost as an accumulation of items mediated and managed through interpersonal

⁸² *UBS*, vi, 381; *ibid.*, vii, 907–53.

⁸³ *Ibid.*, vi, no. 188. Ulrich Bock I seems to have been active until around 1390, while Ulrich II disappears from the record around 1400. Ulrich III can be traced from 1407 to 1430, and Ulrich IV from 1422 to 1450. In the two subsequent generations (some surviving into the early sixteenth century), an Ulrich V and Ulrich VI appear alongside various siblings and cousins. *CDN*, nos. 145, 152, 171, 216, 247, 333, 376, 495, 524, 549.

⁸⁴ *CDM*, iv, 281.

⁸⁵ E.g. the *Schultheiss* at Meistratzheim mentioned in *CDN*, no. 197.

⁸⁶ *CDN*, no. 210.

⁸⁷ Other examples: *RUB*, ii, 181; *ibid.*, iii, 346; *CDN*, nos. 182–3, 211, 216, 257–8, 260, 270, 333, 352, 374, 524; *GLA* 69/2002–45/6.

⁸⁸ E.g. *CDN*, nos. 272, 274, 549.

⁸⁹ *Ibid.*, nos. 495, 498.

⁹⁰ *RI*, xi, no. 7290.

⁹¹ E.g. *CDN*, nos. 249, 315, 369, 416, 470, 494; *AVCUS* AA145.

⁹² *RUB*, iii, 509.

relationships, entailing constant interaction with neighbouring (and overlapping) powers at every level. For the Upper Rhine, at least, our existing conceptions of lordship as mappable territories and vertical hierarchies are wholly inadequate.

This impression is only reinforced by considering lordship and administration from the perspective of a single given zone. The fate of the small town and castle of Guémar in central Alsace offers an instructive example. Though Guémar was theoretically a possession of the bishopric of Strasbourg held in fief by the lords of Rappoltstein for the entire period,⁹³ it experienced government by and exchange among a variety of other powers and temporary occupation on a number of occasions, and was rarely a single unit under the sole authority of a local lord. The most critical moment came in 1403 when, having recently been pledged twice in quick succession to the duke of Austria and Rudolf von Hohenstein,⁹⁴ Guémar was divided in two, and one half pledged to Margrave Bernhard of Baden.⁹⁵ The Rappoltstein brothers Ulrich and Smassmann divided their remaining half again, pledging a quarter of the town for 1850 fl. to a seemingly unlikely pair of joint tenants: King Rupert and the lesser nobleman Eberhard von Ramberg.⁹⁶ Meanwhile, Margrave Bernhard sought in 1409 to sub-pledge his half of Guémar to his son-in-law Lord Ludwig IV of Lichtenberg as a form of collateral for the 6500 fl. dowry for his daughter Anna.⁹⁷ The margrave's half was then sub-pledged two further times, first to Duke Reinold of Urslingen (in 1421), who then (sub-sub-)pledged it onwards to Duke Charles II of Lorraine for 5000 fl. (in 1423).⁹⁸ At this point a four-part chain extended from Charles to the notional overlord of the locality, the bishop of Strasbourg, via Reinold, Bernhard, and Smassmann I von Rappoltstein. In this way, a network of interests involving multiple prominent political actors was generated around a portion of a minor settlement. This half of Guémar was eventually pledged again by the margraves of Baden for 3000 fl. to one Heinrich Beger von Geispolsheim in 1461, though the dukes of Lorraine claimed that they were the rightful tenants until the 1490s.⁹⁹ Tensions arose between Heinrich and the brothers Wilhelm I and Smassmann II von Rappoltstein over access to and exercise of the incomes and jurisdictions of Guémar, and the arbitral proceedings that followed in 1471, overseen by the *Hofgericht* of Rottweil, ordered both parties to treat the

⁹³ Ibid., ii, 38; *ibid.*, iv, 142.

⁹⁴ Ibid., ii, 418, 476–80; *RMBH*, i, nos. 1957, 1997.

⁹⁵ *RUB*, ii, 527–8, 554–5; *RMBH*, i, nos. 2097, 2563.

⁹⁶ *RUB*, ii, 531.

⁹⁷ *RMBH*, i, no. 2584.

⁹⁸ Ibid., i, nos. 3259, 3583, 3595; *RUB*, iii, 158.

⁹⁹ *RUB*, iii, 168–74, 179–80, 184, 187, 212–14, 238–9, 261–4, 343–4, 474–5, 490; *ibid.*, iv, 487; *ibid.*, v, 459–60.

town and castle's appurtenances as a united entity and to rule and enjoy them jointly.¹⁰⁰

The dispute over the minutiae of the exercise of lordship in Guémar in the 1460s–70s provides some insight into the extent to which political actors depended on one another, or at least were forced into interaction with one another, in this world of highly fragmented and dispersed power. Almost all settlements and the areas surrounding them were constituted, in terms of lordship and administration, by a nexus of fragmented yet overlapping properties, revenues, and jurisdictions, owned and exercised by a variety of jostling, interconnected political elites. Rarely was there a single channel of power, flowing from a 'territorial lord' downwards, in a given zone. Instead, the political landscape was populated by networks of elites with multiple roles and multiple connections and affiliations, whose relationships to one another were often more horizontal than vertical. A *modus vivendi* between these elites, and between their local officers and representatives, was essential if lordship was to be exercised and incomes were to be collected effectively. Inevitably, the tangled claims which emerged within these governing networks regularly produced frictions, and, where compromises could not be found, disputes and conflicts arose. The frequency with which political actors in the southern Empire made use of the para-judicial conventions examined in Chapters 2 and 3 is a clear indication that the configurations of lordship and administration in this area were rarely conducive to prolonged periods of tension-free co-existence. The conflict generated by the common forms of lordship found in the southern Empire was not limited to disputes between the more powerful elites. As Peter Blickle has convincingly shown, the communal leaders of subject villages and towns were adept negotiators, and could provide a focal point for opposition to and rebellion against overly exacting lords.¹⁰¹ The fact that in every settlement multiple channels of authority flowed from and between the political elites with assets and rights in that area allowed communes to play their myriad lords and their officers off against one another.¹⁰² All these conflicts, which were the stuff of political life in the southern Empire, arose from the dispersed and overlapping configurations of items of lordship and the networks of relationships through which elites held and exercised these items. This is why it is so important to apprehend the extent to which an array of similar structures of lordship and administration affected the whole spectrum of socio-political elites and those they purported to rule: the other facets of

¹⁰⁰ Ibid., iv, 506–9.

¹⁰¹ Blickle, *Communal Reformation, Kommunalismus*; Kümin, *Communal Age*.

¹⁰² Teuscher, *Lords' Rights*.

political life are only fully explicable by reference to these interaction- and interdependence-generating components.

This is not to say that Upper German politics in the period between 1346 and 1521 amounted to no more than the sum of the components of lordship and administration and the interpersonal ties that connected the holders of these components to one another. Discursive frameworks and collective solidarities sometimes developed around the combinations of assets, incomes, and jurisdictions operated by a given network, imbuing these combinations with some social and imaginary coherence. As was noted at the beginning of this chapter, some of these frameworks and solidarities coalesced around a princely dynasty or the related notion of the *Land* from which such dynasties took their names. It is these processes that the 'territorial' perspective on German history, and the related search for a taxonomy of power-wielders, has rightly tried to articulate. If the result has been a scholarly paradigm that overestimates the extent to which late medieval configurations of power were centralized and hierarchical, that paradigm nonetheless rests on firm evidence that regional and dynastic identifications did emerge in this period.

However, the complex realities of the power-bases and relationships of the political elite do not need to be squeezed uncomfortably into a narrative about ever more coherent and vertically integrated territories, or made to conform to a scheme in which the political actors in the Empire are corralled into distinct categories and spheres (princely, noble, urban, ecclesiastical, and so on). For a start, the comparative examination of structures of lordship and administration undertaken here has revealed a world of elite networks so thoroughly intertwined as to render any profound legal-political distinctions between princes, burghers, nobles, and clerics (in their capacities as temporal lords) nonsensical and impracticable. This situation was rooted in the ways in which the items of lordship possessed by elites were treated. They were highly mobile: items fragmented, recombined, and changed hands frequently. They were also profoundly interconnective: the processes of entering into contracts, financing purchases, and owning and exercising lordship over assets all involved interaction with multiple other elite parties. By necessity, lordship was also expressed in broadly compatible forms—different types of actor all enjoyed the same kinds of assets and engaged in the same contractual ties. Furthermore, those groups that advertised their activities as relating to a particular 'territory', such as the regional estates (*Landstände*) of the scattered Outer Austrian lands in Alsace, the Breisgau, and the Black Forest, often had lateral rather than obviously hierarchical internal relationships; this is a possibility that is considered in Chapter 8. Finally, and most significantly, the catalogue of practices and structures

covered in this chapter often had trans-‘territorial’ dimensions, and the only imaginary political framework which fully encompassed these structures was that of the Holy Roman Empire as a whole. Since the important conceptual and juridical ideas and discourses about the Empire were not backed up by a stable and administratively consolidated monarchy, Upper German elites took the initiative in conducting political life through the widespread, customary, and interconnective practices and institutions which worked for and made sense to them. Part II is an attempt to capture the neglected horizontal and associative characteristics of these practices and institutions, and the ways in which these formed a framework—or ‘political culture’—which naturally arose from and dealt with the common features of political life examined so far.

PART II

ASSOCIATIONS AND ASSOCIATIVE POLITICAL CULTURE

While the fragmented political landscape of the southern Holy Roman Empire may not have harboured any centralizing states or overarching administrative authorities, it was not devoid of organizing or connective institutions. In Part I we have seen that, as a result of the disaggregated and mobile nature of lordship, a variety of actors participated in political life. Configurations of power in Upper Germany entailed constant interaction within dense networks, and these interactions were structured by shared norms and strategies of conflict and mediation. The surviving documentary evidence contains many multilateral treaties which bound political actors into formalized relationships (or ‘associations’). These quasi-institutional frameworks, though generally temporary and contingent, sought to provide a degree of regulation and stability to the frequent interactions of the interdependent governments in the southern Empire. The next three chapters will focus on the most widespread varieties of associations: those referred to by contemporaries as *Bündnisse*, *Bünde*, *Vereinungen*, *Gesellschaften*, and their cognates—or leagues and alliances. We will examine their distribution, characteristics, and variations (Chapter 5); their functions and stipulations (Chapter 6); and their ideological and discursive content and its implications (Chapter 7). Chapter 8 will look beyond the standard format of the alliance or league to a wider spectrum of treaty-based relationships. Late medieval and early modern authorities entered into such relationships in a variety of financial, jurisdictional, dynastic, and conciliar and estate-based contexts, to the point that politics in general in the Empire clearly relied heavily on multilateral contractual ties. The pervasiveness of associations at all levels, from the highly localized to the trans-regional, and their close relationship with ideas and practices in the imperial sphere of government, suggest that political life in the Empire in this period was shaped by an ‘associative political culture’.

5

Associations in Comparative Perspective

The Continuum of Alliances and Leagues

ASSOCIATIONS: AN UNDERESTIMATED AND MISREPRESENTED POLITICAL FRAMEWORK

By the late fifteenth century, Franco-Burgundian observers of the German lands were prone to remarking upon the prevalence of associations. The memorialist and diplomat Philippe de Commynes noted the ubiquity of ‘those leagues of Germany’ in the 1470s, while the chronicler Jean Molinet was struck by the presence of ‘certain leagues and alliances of armed people’ as he accompanied Maximilian of Habsburg through Swabia in 1489.¹ The evidence confirms these perceptions: we shall encounter many treaties of association that have survived from the fourteenth to sixteenth centuries in Upper German archives. Even from the perspective of a single political actor, the frequency with which bi- and multilateral alliances were formed is striking. In the year 1451 alone, Count Palatine Friedrich I sealed alliance treaties with the count of Veldenz, the dukes of Bavaria-Munich and Bavaria-Landshut, the bishop of Würzburg, the towns of Speyer and Wimpfen (individually), and the towns of Ulm, Reutlingen, Weil, Kempten, Giengen, and Aalen (collectively).² In the following year he contracted a further four alliances with the duke of Austria-Tyrol, the bishop of Speyer, the archbishop of Trier, and a group of towns including Nuremberg, Nördlingen, and Dinkelsbühl.³ Larger alliances consisting of three or more powers were also common, and support this picture of constant alliance formation; Count Palatine Friedrich himself was involved in several during his lifetime.⁴ The purpose of this chapter is to examine these pervasive associations in their most common

¹ *Philippe de Commynes*, ed. Dufournet, p. 144; *Chroniques de Jean Molinet*, ed. Buchon, iv, 30.

² *QGFD*, ii, 221–31.

³ *Ibid.*, ii, 231–4.

⁴ E.g. *UGKF*, nos. LXVI–VII.

and distinctive format, that of the alliance or league, and to identify the sub-types within this institutional continuum.

The apparent ubiquity of lateral contractual relationships is not reflected in the dominant interpretations of the history and structure of the Holy Roman Empire. As we have seen, these generally focus on compartmentalized constitutions, hierarchies, systems, or territories and the monarchical or princely rulers at their notional apex. The major exception is the four-volume history of associations (or communities and corporations) written by Otto von Gierke between 1868 and 1913.⁵ Gierke understood German history to be imbued with a communitarian spirit that manifested itself within an array of legal associations (*Genossenschaften*), which extended from leagues and guilds to the Church and the Empire.⁶ The history of German institutions consisted of a dialectic between vertical authority (*Herrschaft*) and horizontal community (*Genossenschaft*). Gierke argued that the latter, in the guise of 'free association' (*Einungswesen*), held the upper hand in the period between 1200 and 1525—'three centuries in which everything [in Germany] developed from below and from within'.⁷ With the anachronistic end point of liberal bourgeois democracy in mind, Gierke enthused about the supposed hallmarks of these *Einungen*: reciprocal oath-swearing, voluntary submission to collective laws (*Satzungen*), and the potential for associations formed in this way to take on political functions.⁸

Insofar as historians have engaged with Gierkian ideas, they have focused narrowly on the presumptive (proto-)bourgeois or urban character of oath-bound associations. This is reflected in the overriding concern of scholars such as Gerhard Dilcher and Peter Blickle for situating horizontal and communitarian practices and traditions within late medieval and early modern towns, guilds, and other apparently self-evidently 'communal' contexts, in contradistinction to the activities of nobles, princes, and monarchs.⁹ Even where historians have specifically examined leagues, alliances, and other late medieval contractual associations of this kind, the impulse to treat them as inherently urban—indicated by the confected label 'town leagues' (*Städtebünde*)—has proved irresistible.¹⁰ The few regional and comparative studies of leagues and alliances in the Empire have been disproportionately focused on towns, often portraying these associations as instruments of social and estate-based solidarity versus the

⁵ Gierke, *Genossenschaftsrecht*.

⁶ Dilcher, 'Genossenschaft'; Oexle, "Rechtsgeschichte der deutschen Genossenschaft".

⁷ Gierke, *Genossenschaftsrecht*, i, 296–7.

⁸ *Ibid.*, i, 220–2, 298–300, 457–60.

⁹ See e.g. Dilcher, 'Bürgerrecht und Bürgerreid'; Blickle, *Kommunalismus*.

¹⁰ For a critique of the limitations of the *Städtebünde* concept see Hardy, 'Reichsstädtische Bündnisse'.

nobility and princes.¹¹ Similarly, the authors of the handful of studies of aristocratic societies have examined these associations in isolation from those of other groups, and sometimes implied that alliances of nobles were intrinsically opposed to cities and princes.¹²

Where historians have acknowledged the existence of associations within the broader structure of the Empire, they have dismissed them as marginal or illegitimate and inherently subversive phenomena. Heinz Angermeier, in his foundational history of the phenomenon of peace-keeping in the Empire (*Landfriede*), presented associations as fleeting manifestations of the failure of unitary state formation in the Holy Roman Empire. Most associations formed in this period presented themselves as vehicles for regional peace-enforcement, among other things, yet Angermeier characterized them primarily as cynical usurpers of *Landfriede*, which authentically resided in the powers of the monarchy and the estates.¹³ Peter Moraw, while acknowledging their transient relevance in particular regions, has suggested that leagues and alliances were of minor significance within the 'imperial constitution' and doomed by 'state formation' in the territories; in this view, they never formed 'a real alternative to the traditional and long-lasting monarchical-aristocratic way of life of the Empire'.¹⁴

The close examination of the context, content, and functions of Upper German associations in the fourteenth to sixteenth centuries that follows will reveal a less segmented and oppositional perspective on the place of associations within the political culture of the Holy Roman Empire. The fragmented yet interconnective structures and dynamics elucidated in Part I formed an important context. These encouraged political actors to resort to horizontal frameworks for managing military and judicial affairs, resulting in the large quantity of these frameworks exemplified by Count Palatine Friedrich's activities in 1451–2, noted above. In other words, associations arose from the deeper contours of the Upper German political landscape.¹⁵ This is not to say that associations were proto-state-like structures forged by egalitarian participants, as imagined within the Gierkian tradition. We shall see that most leagues, alliances, and unions were

¹¹ E.g. Blezinger, *Städtebund*; Sittler, *La Décapole*; Füchtner, *Bodenseestädte*; Berthold, 'Überregionale Städtebundprojekte'; Vogler, *Décapole*; Distler, *Städtebünde*.

¹² Obenaus, *St. Jörgenschild*; Ruser, 'Gesellschaften'; Kutter, 'Rittergesellschaften'; Ranft, *Adelsgesellschaften*; Schneider, *Niederadel*. For a passing acknowledgement that the distinctions between ostensibly different associations break down in practice, see Kruse et al., *Ritterorden*, p. 14.

¹³ Angermeier, *Königtum und Landfriede*, *passim*, esp. pp. 436–7, 564–6.

¹⁴ Moraw, 'Funktion', pp. 20–1.

¹⁵ The potential yields of this embedded and comparative approach to networks and associations are suggested by recent work on leagues and space and early modern German cities: Buchholzer and Richard, *Ligues Urbaines*; Close, 'Regional History'.

of short duration, reliant upon existing ties and mechanisms, and could be the products and causes of coercive or asymmetrical power dynamics. Neither were associations necessarily vehicles for socio-political solidarity or marginalized opposition movements to the monarchs or the dominant factions among the estates (although they could be deployed for such purposes). Every category of status holder in the Empire—princes, including the kings and emperors of the Romans and the electors, prelates, and nobles, as well as communes and cities—habitually entered into lateral contractual relationships throughout this period.¹⁶ As regulatory formations employed across the social spectrum, associations inevitably shaped Upper German and imperial political culture, in a way that has been overlooked by interpretations of a reified ‘imperial constitution’ defined primarily by reference to the ideals of the monarchy and the most powerful princes.

THE CONTINUUM OF ALLIANCES AND LEAGUES AS THE ARCHETYPAL FORMAL ASSOCIATIONS

The most common types of association in the Holy Roman Empire between the fourteenth and sixteenth centuries were alliances and leagues. The words ‘alliance’ and ‘league’ are the closest English equivalents of the terms *Einung*/*Vereinung*, *Bund*, and *Bündnis*, which were used to denote formal associations in most of the evidence that survives from this period. There does not seem to have been any obvious difference in the meaning of these three words, and all of them can be found in treaties and correspondence pertaining to associations of various sizes and durations.¹⁷ ‘Alliance’ and ‘league’ will therefore be used interchangeably as labels for treaty-based associations. The latter word will mainly be employed to refer to longer-term associations consisting of several powers, but this is not to imply any sharp distinction between leagues and alliances. Both terms should be understood as approximate translations of the three German concepts noted above.

It is on alliances, leagues, and their comparable variants that most of Part II will focus. This chapter will examine the entire range of alliances and leagues, providing the first truly comparative typology of Upper German associations in the later fourteenth, fifteenth, and early sixteenth centuries. The various alliances and leagues created in this period shared the same basic features, and can be understood as part of a continuum of

¹⁶ For a rare acknowledgement in existing late medieval historiography of the widespread significance of leagues and related formats, see Watts, *Politics*, pp. 101–9.

¹⁷ See for example the wording of the 1420 treaty cited on p. 105.

comparable formats. Once this survey has been undertaken, it will be possible to consider the regulatory functions of these associations and the discourses and ideologies which were deployed in alliance and league treaties in Chapters 6 and 7. Chapter 8 will then explore other forms of association, and consider the full extent of the 'associative political culture' in evidence in the later medieval and early modern sources.

We have just seen that the quantity and pervasiveness of formal associations have generally been underestimated by historians of the Empire. At best, alliances and leagues have been considered an occasionally significant but predominantly urban phenomenon. The elevated literacy of town councillors, the disproportionate survival of urban archives, and the particular reliance in published source collections on the records of the imperial cities have surely contributed to this distorted picture. Much of the secondary literature draws heavily on a small number of well-known source editions published mostly in the nineteenth and early twentieth centuries.¹⁸ There is a much larger range and quantity of sources pertaining to leagues and alliances in archives and less commonly used editions than this literature would suggest. In the course of this chapter, a significant number of formal associations will be considered which are representative of this range. The process of considering these associations comparatively will provide examples of all the different kinds of political actors discussed in Part I participating in leagues and alliances. Significant variations within the continuum of formal associations will be noted, as will the fundamentally similar stipulations and discursive, material, and behavioural conventions which all leagues and alliances shared. The sample of evidence used for this analysis can only aspire to be representative, and not exhaustive; the quantity of alliances, leagues, and similar formations in the southern Empire is simply too high for all the extant treaties produced between 1346 and 1521 to be considered. The comparative survey will conclude with some reflections on the shared features of all of these types of formal associations.

SHORTER-TERM ALLIANCES

The majority of treaties featuring the words *Einung*, *Bund*, *Bündnis*, or their cognates can be categorized within a broad and generic group of

¹⁸ For example, Angermeier, *Königtum und Landfriede*, and Distler, *Städtebünde*, both rely extensively on the *Monumenta Germaniae Historica*, the early volumes of the *Deutsche Reichstagsakten*, and various urban *Urkundenbücher*. Neither monograph employs any archival evidence.

short-term alliances. This group furnishes a helpful point of comparison with the more specific or longer-term association formats discussed below, provided that it is recognized that all of these formats blurred into one another conceptually and functionally, and that none of the varieties of leagues and alliances in this chapter can be understood as an impermeable category. At its simplest and most common, the generic alliance was a treaty-based union between two parties. It usually safeguarded their respective interests through two regulatory pathways: the promise of mutual assistance against enemies in feuds, and the stipulation that disputes between the allies would be resolved by specified methods, which tended to mean the use of agreed arbitrators or courts. These regulatory pathways will be discussed in more detail in Chapter 6, but it is important to be aware of them in this comparative survey, since they were recurrent features of alliances and many other forms of association. As we saw in the case of the Count Palatine in 1451–2, a single actor could be involved in many such alliances at once.

The format of this customary bond remained fairly constant throughout this period. Two bilateral alliances between the lords of Rappoltstein and their neighbours illustrate this clearly. In 1374 Ulrich von Rappoltstein entered into a three-year ‘bundnusse’ with the municipal council of Munster in Alsace, which set out the courses of action to be taken in the case of disputes and felonies committed by their subjects, and contained mutual promises, backed by oaths, to undertake military action against the enemies of either party in a defined area (the valleys between Munster and the Rappoltsteiner castle of Hohenack). It was specified that existing alliances should not be affected by the stipulations of this particular treaty, and a list of parties to whom its contents did not apply was provided by both signatories.¹⁹ Almost a century later, in 1456, the brothers Caspar and Wilhelm von Rappoltstein swore to and sealed a similar treaty with the town of Sélestat. In this case it was binding for thirty years, and the areas subject to shared defence extended to ‘all of our towns, castles, and villages’.²⁰ However, its stipulations about mutual assistance, agreed methods of arbitration, and the exemption of existing alliances and named actors from the treaty’s terms were essentially the same as those in the 1374 alliance.²¹

These features constituted a universal template for the political actors of the southern Empire in the fourteenth to sixteenth centuries. That is not to say that alliances did not have specific goals. Obviously, these contractual bonds were drawn up to meet the contingent needs of the actors

¹⁹ *RUB*, ii, 99–101.

²⁰ *Ibid.*, iv, 197.

²¹ *Ibid.*, iv, 197–8.

involved—or, at least, the needs of the most powerful actors, who might then put pressure on their weaker neighbours to participate, though such power dynamics are difficult to detect in the formulaic treaties. The customary blueprint was simply adapted, in endless similar permutations, to the particular circumstances of the signatories. Here some alliances of the bishops of Strasbourg provide an instructive example. In 1359 Bishop Johann sealed an alliance with the city of Strasbourg against the backdrop of a feud he and his brother the lord of Lichtenberg were waging against Colmar, Haguenau, and their allies, in which the support of the independent metropolis at the heart of his lands was essential.²² Bishop Ruprecht's 1444 alliance with Count Ludwig of Württemberg-Urach came two years after the latter had acquired some lands in Alsace, which made him a neighbour.²³ In both cases, the duration of the alliance and the precise details of how conflicts would be avoided and resolved, including the identity of arbitrators and those exempt from the treaty's terms, reflected the contingencies of the two situations. The 1359 alliance, for example, was to last 'until the aforesaid war [against Haguenau] has been fully resolved'.²⁴ Fundamentally, however, both cases drew on the conventional framework of the Upper German bilateral alliance, defined by oath-backed promises of mutual aid, agreed paths of negotiation, and the preservation of existing rights and relationships. This same exercise could be carried out in relation to other alliances of the counts of Württemberg—those with the margraves of Baden in 1392 and 1477, for example,²⁵ or with Duke Sigmund of Austria-Tyrol in 1458 and 1485²⁶—with similar results; these cases also shared these traditional features while fulfilling context-specific aims for both parties. Even alliances within the framework of the Swiss Confederation conformed to this pattern, albeit with the key difference that they were ostensibly eternal, and therefore lacked a fixed duration. Alliances among the Swiss Confederates, including bilateral alliances such as that of Bern and Zurich in 1423,²⁷ boiled down to comparable promises of mutual military assistance and agreed regulations for dispute resolution in existing or ad hoc courts, all couched in the customary language linked with associations.²⁸

The employment of a universal template, adapted to specific conditions, was also a feature of multilateral alliances. Treaties involving multiple political actors also stipulated mutual aid in times of war and pathways of adjudication, along with making provision for the existing

²² ADBR G127; see also ADBR G128; AMC AA54/5b; *CDM*, i, 251–4.

²³ ADBR G140/1; see also *AUWG*, pp. 38–46. ²⁴ ADBR G127.

²⁵ GLA 46/261; GLA 36/2377–8. ²⁶ TLA Sigm./13.519; ADHR E9.

²⁷ *AEA*, ii, 723–7. ²⁸ On this customary language see Chapter 7.

alliances and entanglements of their signatories. Naturally, they were also designed to meet the demands imposed by particular circumstances, and so their specificities—duration, choice of arbitrators in times of dispute, and so on—varied, just as those of bilateral alliances did. If there is a point of moderate difference between two-way alliances and larger ones, it is merely that the latter, while also usually of fixed duration, tended to be established for longer periods, or else to undergo multiple renewals. The various multilateral alliances of Freiburg in the Breisgau from the mid-fourteenth to late fifteenth century illustrate this clearly. In the 1340s and '50s, Freiburg was involved in a series of repeatedly renewed alliances (1348, 1349, 1350, and 1356) with the towns of Breisach, Strasbourg, and Basel, which extended to embrace the duke of Austria (via his officers in Alsace) in a five-year 'verbundnisse' from 1350.²⁹ As in any bilateral treaty, the allies promised to defend one another's possessions, in the 1350 case using the wording 'as if it [an enemy attack] was against our own lordships'.³⁰ They also included some stipulations for the management of potential disputes among themselves, and a lengthy list of parties against whom the treaty could not be invoked.³¹ The context of tensions between Austrian clients plus the free and imperial cities of Alsace and the Breisgau, on the one hand, and Zurich and its Alpine allies, on the other, explains this particular use of the alliance format.³² From 1368 onwards Freiburg's freedom of action was curtailed by its subjection to the lordship of the dukes of Austria. However, the same format was redeployed by the town in new alliances created in transformed geopolitical circumstances in 1422–4, during an interlude as an imperial city, and again in 1475.³³ The latter alliance, a ten-year union with the Breisgau towns of Breisach, Neuenburg, and Emdingen which was renewed in 1485 and again in 1499, is especially interesting, because at this point Freiburg and its three allies were all once again subjects of the lordship of Austria, and had been for some decades.³⁴ The treaty barely gives any indication that this was the case,³⁵ and matches in all respects the kind of common military and adjudicatory conventions which were invoked in Freiburg's earlier alliances. Being subject to a prince was not necessarily an obstacle to participation in associative political culture.

The remarkable popularity of the customary alliance was not limited to predominantly urban associations. For example, the bishops of Strasbourg

²⁹ *UADOSB*, ii, 292–5, 301–6; *UBF*, i, 397–407. ³⁰ *Ibid.*, i, 398.

³¹ E.g. *ibid.*, i, 404–7. ³² See the reference to Zurich in *ibid.*, i, 402.

³³ *CDM*, ii, 17–26; *UBF*, ii, 553–7. On Freiburg in the 1420s see Chapter 10, pp. 205–6, 209.

³⁴ Scott, *Freiburg*, p. 34.

³⁵ It is referenced only briefly: 'because we desire henceforth to be and remain . . . in our gracious lordship [of Austria]'. *UBF*, ii, 554.

had extensive recourse to large-scale alliances with neighbouring nobles and other powers in addition to the many bilateral treaties we have already seen. In 1447, for instance, Bishop Ruprecht, the counts of Lützelstein, Eberstein, Mörs-Saarwerden, Helfenstein, and Lupfen, and the lords of Sulz-Geroldseck and Rechberg drew up a treaty which declared that 'we have banded together, allied, and leagued ourselves [*"uns . . . zü sam[m]en getan v[er]einiget und verbunden habent"*]' for three years.³⁶ This large trans-Rhenish treaty conformed to the traditional alliance template, containing detailed instructions about procedures in times of joint military activity and para-judicial negotiation, with an unusual amount of detail about forms of arbitration within the alliance. Between the 1470s and the 1490s Bishop Ruprecht and his successor were key participants in the league of urban, episcopal, and princely powers known as the 'Lower Union', which will be examined in detail in Chapter 11.

The fourteenth and fifteenth centuries also saw the creation of almost exclusively 'princely' alliances. Though these encompassed some of the most powerful political actors in the Holy Roman Empire, they nonetheless drew on the same format as that used by other elites. The 1393 three-way alliance of the duke of Austria-Tyrol, the margrave of Baden, and the count of Württemberg demonstrates this clearly, in that its treaty contained detailed stipulations which addressed both military and judicial regulations.³⁷ So, too, does a more famous example: the ten-year princely 'League of Mergentheim'. It was sealed in 1445 by Archbishop Dietrich of Mainz, Duke Ludwig VIII of Bavaria-Ingolstadt, Duke Otto of Bavaria (of the Palatine Mosbach branch), Duke Albrecht VI of Austria, Margraves Johann and Albrecht of Brandenburg(-Kulmbach and -Ansbach), Margrave Jakob I of Baden, and Count Ulrich V of Württemberg-Stuttgart. It was part of a series of shifting coalitions formed in Upper Germany against the backdrop of the Armagnac incursion and the growing animosity between the towns of Swabia and Franconia and Margrave Albrecht Achilles of Brandenburg-Ansbach.³⁸ The treaty's stipulations were comparable to those of any other alliance or league, beginning with lengthy instructions about how disputes between members should be resolved via mediators, and continuing with directions regarding the channelling of certain cases through appropriate courts and the lending of 'faithful assistance' in times of war.³⁹ Princely alliances like that of 1445 should not be taken to imply a timeless and inherent animosity between princes and towns. In the very same year, two fellow princes, Count Palatine Ludwig IV and Count Ludwig of Württemberg-Urach, allied

³⁶ ADBR G140/4.

³⁸ *RTA*, xvii, 683–9.

³⁷ GLA 46/192.

³⁹ *Ibid.*, xvii, 686.

with a coalition of Swabian towns, in opposition to which the League of Mergentheim had been formed.⁴⁰ Instead, what they demonstrate is that the format of the *Bündnis/Bundl(Ver)einung* was an all-encompassing phenomenon. This phenomenon, which lay at the heart of the associative political culture of the elite of the Holy Roman Empire, was a single type with multiple minor variations, and did not consist of two divergent configurations (the medieval, urban *Einung* versus the early modern, princely *Bündnis*), as Peter Moraw suggested.⁴¹

A closely related type of formal association to these generic alliances was the *Landfriede* (literally, 'land-peace') in its multilateral guise. It is difficult to define, because the term '*Landfriede*' was connected to the legislation, judicial authority, and peace-keeping mission of the kings and emperors of the Romans and, in due course, the imperial estates throughout the later medieval and early modern period.⁴² Under Charles IV it was common for association treaties in the Empire to contain an explanation for their own existence in light of recent ordinances called *Landfrieden*; for instance, the scribe of a Swabian alliance document mentioned 'the "Landfrid" which our gracious lord Emperor Charles of Rome issued' in 1356.⁴³ In contexts like this, *Landfriede* referred to a decree or peace treaty issued by the monarch at an assembly, such as the 1353 'general[is] in Alemannia tota pa[x]' issued by Charles at Ulm.⁴⁴ The word *Landfriede* could also be used as a label for associations. The monarchical administrations of Ludwig IV, Charles IV, Wenceslas, and Rupert were involved in overseeing the creation of many alliances in the years between the 1320s and 1410, whether by ordering that they be founded, or by endorsing existing formations. An association established under such monarchical supervision would be referred to as a 'gemeinen frid' (collective/common peace) or 'lantfride'.⁴⁵ This suggests that during the long fourteenth century the word *Landfriede* and its cognates could refer both to imperial ordinances and to short-term regional alliances, and that these two meanings were elided because of the close involvement of these monarchs in setting up these associations. During Sigismund's reign, with a few exceptions,⁴⁶ the monarchical administration ceased to be directly involved in the establishment of alliances. Thereafter, the actual word 'lantfride' (and variants) mostly disappeared from sources linked to alliances and leagues, while the related lexicon of peace, necessity, and the common good gained ever

⁴⁰ Ibid., xvii, 760–2.

⁴¹ Moraw, 'Funktion', pp. 20–1.

⁴² The most recent treatment of *Landfrieden*, with exhaustive references to older literature, is Baumbach, *Landfriedenssorge*.

⁴³ *DPiP*, p. 32.

⁴⁴ Ibid.

⁴⁵ E.g. *RTA*, i, 206; *ibid.*, ii, 156; *ibid.*, vi, 624.

⁴⁶ E.g. *Ibid.*, vii, 207–10.

wider currency in both alliance treaties and in the context of negotiations over legislation at the imperial assemblies.⁴⁷ During the reigns of Frederick III and Maximilian, the specific word 'peace' was reserved for imperial ordinances, such as the 1471 'gemeinen bestendigen frieden' of Regensburg and the 1486 'gemeinen, christlichen friden' of Frankfurt.⁴⁸ These peace-ordinances were in turn invoked in some alliance treaties, whether these were created in close collaboration with the monarchy, as in the case of the Swabian League, discussed below, or on the initiative of actors in the localities.

This is roughly the trend that Heinz Angermeier noted in his classic account of the different forms taken by monarchical *Friedenshoheit* (supremacy in peace-keeping) as it manifested itself in *Landfriede*.⁴⁹ It is not, however, the whole story. Ultimately, the *Landfriede* cannot be seen as an institution in its own right which evolved into alternating forms (regional alliances or imperial ordinances). It needs to be understood as part of a widespread discourse about peace-enforcement because of urgent necessity (*Notdurft*) and for the sake of the common good (*gemeiner Nutz*). This discourse pervaded the sources produced in connection with both formal associations and regional or imperial assemblies, two types of institution which were often related. As early as 1254, members of the Rhenish League had invoked the 1235 *Reichslandfriede* of Mainz ('pacem generalem [Moguntinam] juravimus firmiter observare'),⁵⁰ and the connection remained throughout the three ensuing centuries. This discursive link between associations and peace in the Empire will be analysed in more detail in Chapter 7. What is worth noting at this point is that virtually all alliance treaties drew to some extent on this discourse of peace-enforcement. This makes it very difficult to separate so-called *Landfrieden* from leagues and alliances in general. Some formal associations can be singled out on the basis that they were created on the orders of monarchs, or that they fulfilled a specific peace-keeping need, as was the case for some of the pan-Alsatian alliances created in the fourteenth and fifteenth centuries.⁵¹ However, it is clear from a close reading of these sources that they were modelled on the customary alliance format that we have seen in all the 'non-*Landfriede*' examples cited so far. They contain the same sorts of stipulations about pathways of mutual assistance in times of feuding and about adjudication among members of the association. One Alsatian chronicle noted that a 1353 three-year 'league of peace' ('liga pacis ad triennium') instituted by Charles IV was characterized by the

⁴⁷ See Chapter 7, *passim*. ⁴⁸ *RTA*, xxii, 870; *RTAMR*, i, 384.

⁴⁹ Angermeier, *Königtum und Landfriede*. ⁵⁰ *GGRS*, ii, 16.

⁵¹ E.g. the 1439 alliance against roving mercenary bands: *CDM*, ii, 84–8.

mutual support and arbitrators ('judices') supplied by each member: the bishops and cities of Strasbourg and Basel, the imperial cities (presumably Haguenau, Colmar, and their smaller counterparts), the abbot of Murbach, and the lords of Lichtenberg, Ochsenstein, Geroldseck, Rappoltstein, and Usenberg.⁵² A 'friendly, faithful alliance ["eynigunge"]' created in 1395 in Alsace 'at the behest and recommendation of the most resplendent prince and lord, Lord Wenceslas, king of the Romans', presents the same picture.⁵³ The signatories—the imperial *Landvogt*, the bishop and city of Strasbourg, and the ten imperial cities—agreed to detailed means of mediating disputes that arose among them, and promised to provide troops against collective threats. Insofar as it is possible to separate these '*Landfriede*-alliances' from the other examples examined so far, it is clear that they displayed the same features, and belonged to the same continuum of formal associations.

Another slight variant within this continuum was the knightly society. The main difference between these formalized affinities and other alliances was that they were primarily limited to the non-princely nobility—knights, lords, and, occasionally, counts. Even so, there were plenty of exceptions to that rule, which suggests that this social exclusivity was more rhetorical than real. In 1380, for example, the municipal council of Basel joined the Society of the Lion (*Löwen*),⁵⁴ while in the 1390s the urban governments of Worms and Speyer were members of the Society of the Mallet (*Schlegel*).⁵⁵ Yet it is clear from the language of the documentation drawn up on behalf of these associations that they fashioned themselves as a defined social group, primarily for the sake of an audience consisting of others within that group, namely 'all lords, knights, and squires/retainers'.⁵⁶ Beyond this social and discursive point of contrast, knightly societies seem to have merged seamlessly into the wider modes of operation of leagues and alliances. Relatively few treaties creating knightly societies survive, and for the most part we learn of their existence through other sources. It is quite likely that such groups first came into being through informal networks of knights bound together by dynastic and lordship-based ties, not least the sort of financial and tenurial relationships we saw in Chapter 4. Those treaties that are still extant seem to be modelled on the short-term alliance format. The 1372 treaty of the Society of the Crown (*Krone*), for example, stipulated oath-bound mutual assistance and joint submission to an internal arbitrator throughout its two-year duration, as well as containing clauses specific to the circumstances of its signatories, such as a promise not to provide military service

⁵² *MHAEB*, iii, 73–4.⁵³ *UBS*, vi, 575–81.⁵⁴ *UBB*, iv, 438–9.⁵⁵ Kutter, 'Rittergesellschaften', p. 104.⁵⁶ *UOADS*, iii, 1430.

to a lord without the consent of the other members of the society.⁵⁷ Similar but more detailed stipulations were made in the 1379 treaties of the society of the Claw (*Greifen*), which was founded in the region between Mainz and Heidelberg, and of the Society of the Lion, which encompassed members from Nassau in the north to Basel in the south.⁵⁸ By far the most developed example was the Society of St George's Shield (*St. Jörgen-/Georgenschild*), which came into existence in the early fifteenth century as an alliance of middling and lesser nobles bound together by a commitment to mutual defence in feuds and to collective conflict resolution, and which lasted into the sixteenth century. As Herbert Obenaus's detailed study showed, these classic associative features remained the hallmark of the society throughout its long existence.⁵⁹ The Society of St George's Shield's unique size and longevity mean that it is best analysed alongside other long-term leagues in the section that follows.⁶⁰

The fact that knightly societies drew on the widespread format of the short-term alliance is particularly significant because such societies were quite common—certainly more so than the sparse existing scholarship devoted to them would suggest. The emphasis of the literature so far has been on the large associations of the late fourteenth century and the highly organized Society of St George's Shield. The 'systematic index' of chivalric and noble societies edited in 1991 by Holger Kruse and others does not list any examples besides these for the south-western lands of the Empire in the fourteenth and fifteenth centuries.⁶¹ Yet there is plenty of evidence, particularly in Alsace, which suggests that many more such societies existed, albeit on a smaller scale and for shorter periods of time. One example is the 'Society of the Leopard' ('Gesellschafft vom Lechbart'), which seems to have formed in 1420. The date is suggested by a treaty from that year which bound its members, several Alsatian nobles, by oath in a situation of mutual obligation with Bishop Wilhelm of Strasbourg.⁶² It mentioned their recent coming together in a 'society, alliance, and league' ('Gesellschafft, Buntnisse und vereynunge'), a formula which suggests that these three associative concepts were almost indistinguishable.⁶³ Intriguingly, the treaty mentions that it was sealed with 'our society's collective seal' in addition to the seals of the individual members.⁶⁴ The first incision in the lower fold of the document is indeed labelled 'society' ('Gesellschafft'), but unfortunately the seal itself has not survived

⁵⁷ Beilage 5 in Ruser, 'Gesellschaften', pp. 51–2.

⁵⁸ Beilagen 11–12 in *ibid.*, pp. 54–60.

⁵⁹ Obenaus, *St. Jörgenschild*.

⁶⁰ See pp. 113–16 below.

⁶¹ Kruse et al., *Ritterorden*.

⁶² ADBR G136/2.

⁶³ *Ibid.*

⁶⁴ *Ibid.*

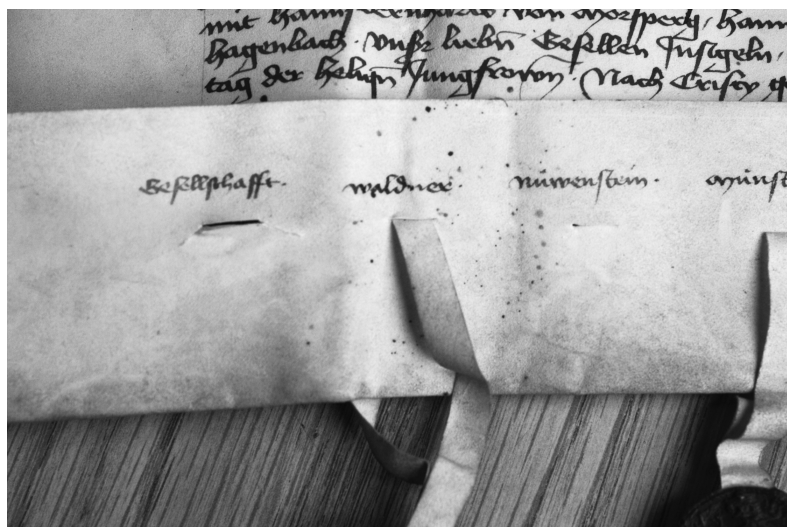


Figure 8. 1420 treaty of the Society of the Leopard with Bishop Wilhelm of Strasbourg. Detail showing the slot (labelled 'Gesellschaftt') for the Society's collective seal, now missing. ADBR G136/2, author's photograph

(Figure 8). The society, and its alliance with the bishop of Strasbourg, may have been created because of the feud these parties were waging against the municipal government of Strasbourg at this time, for the signatories of the 1420 treaty were leading members of some of the noble dynasties involved in that war.⁶⁵ However, the society must have extended beyond the Lower Alsatian sphere of the bishop of Strasbourg, because in 1423 a knight from Colmar called Dietschen von Hungerstein invoked his membership of 'die gesellschaftt von Lechtbartt' in a dispute settlement with Smassmann von Rappoltstein.⁶⁶

Another hitherto unknown knightly society, which was contemporaneous with that of the Leopard, was the 'Society of the Griffin' ('gesellschaft des Griffen').⁶⁷ This group appears solely in records of arbitrations in the years 1425–6, one involving Catherine of Burgundy, dowager duchess of Austria-Tyrol, another involving Smassmann von Rappoltstein and his brother Ulrich, and another involving Duke Reinold of Urslingen and the towns of Colmar, Sélestat, and Kaysersberg.⁶⁸ Though no record of its foundation or alliance-based activities survives (to the author's knowledge),

⁶⁵ See AVCUS AA140.

⁶⁶ RUB, iii, 160.

⁶⁷ GLA 21/44.

⁶⁸ Ibid.; RUB, iii, 195, 210, 229.

it is significant that its existence is attested by sources produced in the course of the kind of mediatory processes which formed a key *raison d'être* of all the alliance forms examined so far. Some sources point suggestively to the existence of knightly societies without even providing their name. For example, in 1462 the lesser nobleman Heinrich von Landsberg resolved a dispute over a warhorse by inviting one Eberhard von Andlau, whom he specified was 'the leader of our alliance and society', to step in as mediator.⁶⁹ Such tantalizing references indicate that there were many more knightly societies than those of which we are currently aware, perhaps awaiting discovery among the abundant archival evidence stemming from the southern Empire.

The final short-term association in this continuum of forms, which was employed mainly along the densely urbanized Upper Rhine, was the citizen-alliance (*Burgrecht*, or sometimes *Bürgerrecht*).⁷⁰ Such treaties provided a means for the powerful cities of the region to regulate their close ties with somewhat less powerful neighbours who were nonetheless autonomous political actors. In return, the latter became citizens of the city in question. Beyond the fact that they pertained specifically to urban relationships, *Burgrecht*-treaties were similar to other kinds of short-term alliance. For example, in the 1397 citizen-alliance between Rudolf von Friedingen and his wife Klara Anna von Thiengen, lords of the town and castle of Thiengen in the Black Forest, and the imperial city of Rottweil, the noble couple agreed to submit themselves to the arbitration of the urban court in disputes, and to provide military assistance to Rottweil, which would be reciprocated when Rudolf or Klara Anna requested it.⁷¹ In the following year Lady Anna of Geroldseck sealed a virtually identical agreement with Rottweil, which was to last five years, with the additional stipulation that she would pay an annual contribution of 5 fl. to the city.⁷² Rottweil also maintained a comparable agreement with the abbey of St Georgen which lasted for much of the fifteenth century, ending only in 1502–3.⁷³ Zurich was similarly active in seeking *Burgrecht*-agreements with its neighbours, and succeeded in making the counts of Sulz, among others, citizen-allies for much of the fifteenth century, with renewals extending into the 1500s.⁷⁴ Basel was particularly prolific, signing *Burgrecht*-contracts with small towns (such as Delsberg/Délémont in 1407) and many of the nobles based in the surrounding fortresses in the Sundgau.⁷⁵ As late as 1517 Basel entered into a citizen-alliance with Jakob von Rotberg, which still relied on the classic formula of mutual aid, 'especially

⁶⁹ Ibid., iv, 281.

⁷² Ibid., p. 240.

⁷⁵ *UBB*, v, 373–5.

⁷⁰ Würigler, 'Burgrecht'.

⁷³ GLA 100/109.

⁷¹ *UBR*, p. 238.

⁷⁴ GLA 10/1484.

if the said Jakob, our citizen, should ever have disputes with his princes or feudal lords', and agreed means of managing disagreements and litigation.⁷⁶ The Swiss Confederates also made use of *Burgrechte* (and *Landrechte*, as they were called when they were signed with rural communes rather than towns), not only as individuals—as in the case of Zurich above—but also collectively. Hence, for example, the 1437 *Landrecht* between Schwyz and Glarus on one side and the communes of the Sarganserland, west of the *Rheintal*, on the other,⁷⁷ or the eternal *Burg-/Landrecht* sealed by the abbot of St Gallen with Zurich, Lucerne, Schwyz, and Glarus in 1451.⁷⁸

Burgrecht-alliances were undoubtedly instruments of control from the perspective of the dominant urban partner, as indicated by clauses obliging the citizen-ally to obtain consent for any alliances made elsewhere, and to pay regular contributions.⁷⁹ However, in many cases the citizen-allies seem to have retained substantial autonomy, and the dynamic of the relationship was never characterized by one-sided domination. The ultimate aim of *Burgrechte* was not simply to make lords and ladies into citizens, but to establish an associative bond with attendant military and adjudicatory obligations. The corollary of such a bond was that municipal governments did not enjoy straightforward obedience from citizen-allies, but had to treat them as—sometimes unruly—partners. The Strasbourg chronicler Jakob Twinger wrote these rueful reflections on the relationship between his city and its citizen-allies:

When they needed help from the city, they would say that they were citizens, and that we were therefore obliged to assist them, as with [any other] citizens. However, when we requested that they do something unappealing to assist the city, they would say that they were not citizens after all, and that they had nothing to do with the city. Thus, they wanted to have it both ways.⁸⁰

That citizen-alliances did not always work in the ways intended by municipal governments is illustrated by a war between Haguenau and the lord of Lichtenberg, who was a citizen-ally of the imperial city, in 1359–60. A report drawn up by the government of Haguenau in 1360 for the purposes of peace negotiations at a *Tag* in Strasbourg begins: 'The first thing to know is that the town of Haguenau has a sealed letter, with the appended seal of Hanman, lord of Lichtenberg, stating that he swore a spelled-out oath to become and remain a citizen of Haguenau for ten whole years from the day the letter was given, and in this time to avoid

⁷⁶ Ibid., ix, 401–3.

⁷⁹ E.g. *UBB*, v, 374.

⁷⁷ TLA Sigm./04b.55.054.

⁸⁰ *COS*, ii, 802.

⁷⁸ *AEA*, ii, 864–6.

damage to the afore-named town and to promote its honour and wellbeing'.⁸¹ Against this backdrop, the report indignantly recounts that Hanman von Lichtenberg acted against Haguenau's interests by raiding its possessions and allying with the bishop and town of Strasbourg against it, all of which deviated from the way in which citizen-allies were supposed to behave.⁸² The citizen-alliance clearly allowed enough room for manoeuvre on both sides for it to be categorized within the spectrum of short-term formal associations, even if it differed in some respects (mainly in terms of its framing according to the typology of citizenship) from the more generic kinds of alliances discussed so far.

LONGER-TERM ALLIANCES AND LEAGUES

The evidence considered above suggests that the political elite of the southern lands of the Holy Roman Empire shared an associative format and vocabulary which was widely used and understood. Sometimes alliances and leagues based on this format survived for unusual lengths of time, usually through repeated renewals of treaties and substantial continuity in the core membership of the groups undertaking these renewals. Over time such long-term formations could develop their own internal structures and hierarchies, while remaining anchored in the generic format of the formal association, with its primary objectives of regulating interactions through military assistance and agreed pathways of justice and mediation, backed up by oaths and mutually agreeable parameters.

A prime example is the league of Swabian cities, which underwent dozens of renewals in the course of the fourteenth and fifteenth centuries.⁸³ In its first incarnation the league consisted of nine imperial cities between the Swabian Jura and Lake Constance, including Esslingen and Rottweil, which collectively constituted a *Landfriede* approved by King Ludwig IV in 1331.⁸⁴ The cities were temporarily joined by several nearby princes and nobles in the ensuing decade.⁸⁵ By 1348 the association had grown to encompass twenty-three towns, including Ulm, Augsburg, and Nördlingen, and seems to have acquired a kind of institutional unity, judging by the willingness of Charles IV's administration to confirm the fiefs of all twenty-three members in a single document.⁸⁶ It was closely linked to

⁸¹ 'Fehde', ed. Mone, p. 176.

⁸² Ibid., pp. 176–88.

⁸³ For this paragraph see Blezinger, *Städtebund*; Kießling, 'Städtebünde', pp. 79–116 and its references to older literature.

⁸⁴ HSA A602/5242–5.

⁸⁵ HSA A602/5246–8.

⁸⁶ HSA A602/5250–2.

Charles's fiscal and peace-keeping initiatives until 1376, when its core members formed a new league specifically to defend their autonomous status, and thereafter constituted the core of a vast network of leagues that survived until 1389.⁸⁷ A mere year after the dissolution of the great leagues of the 1380s, Ulm, Nördlingen, and ten other free and imperial cities formed a new multilateral alliance, which soon found princely and comital allies in its vicinity.⁸⁸ Though its membership waxed and waned, the league of Swabian cities endured without any clear interruptions throughout the fifteenth century, sustained by constant treaty renewals and renegotiations.⁸⁹ There were sub-groups within the league which were independent of the dominant East Swabian towns (primarily Ulm and its neighbours), such as the coalition of West Swabian and Black Forest towns centred on Esslingen and Rottweil in the 1370s.⁹⁰ Several of the towns on the *Hochrhein* and around Lake Constance, such as Constance and Schaffhausen, were drawn into the league in the 1370s and again in the 1440s.⁹¹ Between the 1330s and 1400s Constance was simultaneously the linchpin of an alliance 'of towns of the Holy Roman Empire around the lake', a long-term league in its own right based around the shores of Lake Constance.⁹²

The league of Swabian cities was therefore very loose, and based on multiple sub-associations which overlapped with other alliance-based networks. Nevertheless, it displayed remarkable continuity and resilience between the early fourteenth and early sixteenth centuries. Neither Charles IV's opposition in the 1370s, nor the official dissolution of the league by Wenceslas in 1389, nor the resounding defeat of the coalition it underpinned in the 1440s–50s eliminated it or prevented its re-formation for very long, and it survived to become a vital element within the later Swabian League of 1487–1533. At times members of the league even acquired some rights and properties collectively, as in the case of the lordship of Hohenberg, which was held in pledge from the duke of Austria-Tyrol by the allied towns in the 1420s and '30s.⁹³ Throughout its periodic existence the league relied on the classic alliance format, with its military and judicial regulations adapted to the needs of a sprawling and durable association of towns and shorter-term noble, princely, and episcopal allies.

⁸⁷ HSA A602/5253–4, 5259–75; on the events of 1376–89 see Chapter 9.

⁸⁸ HSA A602/5351–2, 5355, 5366–71.

⁸⁹ E.g. HSA A602/5390, 5415, 5436, 5451, 5466, 5480–2, 5505, 5523, 5548, 5579, 5605, 5627, 5705, 5745–6, 5752, 5759, 5765, 5780.

⁹⁰ E.g. *UBE*, pp. 139–40.

⁹¹ E.g. *UAODSB*, iii, 1478; *RTA*, xvii, 732.

⁹² GLA 5/6917. On this league, see Füchtner, *Bodenseestädte*.

⁹³ TLA Frid./29/3, 34/20.

A smaller league of imperial cities, which was more firmly based in a defined region, existed throughout the later fourteenth, fifteenth, and sixteenth centuries in Alsace.⁹⁴ Already in the thirteenth century the smaller autonomous towns on the west bank of the Rhine cooperated regularly, and by the early fourteenth century they were forming constant alliances with one another. In 1336, for example, the towns of Colmar, Haguenau, Sélestat, Mulhouse, Rosheim, and Obernai were allies in a war against partisans of John of Luxemburg,⁹⁵ and in 1338 they were joined by Kaysersberg, Turckheim, and Munster within the framework of *Landfrieden*, in collaboration with the bishops of Basel and Strasbourg, the abbot of Murbach, and others.⁹⁶ The southernmost towns renewed their alliances again in 1342 and 1346.⁹⁷ In 1354 these links were harnessed by Charles IV, who sanctioned an alliance of all nine Alsatian imperial cities, plus Wissembourg in the far north, under the supervision of the imperial *Landvogt*, an officer whose district (*Landvogtei*) encompassed most of these cities.⁹⁸ These ten allied towns have been dubbed *la Décapole* ('the Decapolis') by modern historians, and depicted as the unflagging political backbone of Alsatian regional identity between the fourteenth and seventeenth centuries. However, as Olivier Richard recently pointed out, this interpretation of the league has more to do with nineteenth- and twentieth-century francophone historians' desire to uncover a republican regional identity in the Alsatian past than with the dynamics suggested by the pre-modern sources.⁹⁹ Like the towns of Swabia, the Alsatian imperial cities made alliances outside of their league, and sometimes outside of Alsace: Haguenau and Wissembourg joined the Rhenish League of 1381, for example,¹⁰⁰ while Colmar and Sélestat were drawn into the trans-regional coalition against Burgundy via their membership of the Lower Union in 1474.¹⁰¹ More importantly, the league did not consist of ten towns throughout this period, nor did it function without interruption. It was dissolved on the orders of Charles IV in 1378.¹⁰² When, following his death, some of the municipal governments re-forged the league in 1379, they did so without Kaysersberg, Turckheim, and Munster, and with the new addition of the imperial city of Seltz, Wissembourg's neighbour.¹⁰³ By the late fifteenth century, the southernmost city, Mulhouse, was becoming increasingly detached from the rest of the 'Decapolis', allying

⁹⁴ For this paragraph see Sittler, *La Décapole, La Décapole—der Zehnstädtebund*; Vogler, *Décapole*.

⁹⁵ *CDM*, i, 153–4.

⁹⁶ *Ibid.*, i, 162–6.

⁹⁷ *Ibid.*, i, 179–82, 196–8.

⁹⁸ *Ibid.*, i, 239–44.

⁹⁹ Richard, 'Décapole', pp. 105–19.

¹⁰⁰ See Chapter 9, p. 184.

¹⁰¹ See Chapter 11, p. 226.

¹⁰² *CDM*, i, 302–3.

¹⁰³ *Ibid.*, i, 306–10.

with Bern and Solothurn in 1466, and joining the Swiss Confederation in 1515.¹⁰⁴

The associative activities of the imperial cities were clearly shaped by their desire to preserve their status. The first clause of the 1379 alliance—before the usual regulations concerning military aid and methods of adjudication—insisted upon their joint resolve ‘to remain with [i.e. immediate, autonomous members of] the Holy Roman Empire’ through mutual assistance against threats of alienation to other lords via pledging or conquest.¹⁰⁵ This fear was not unfounded: in 1418 Seltz was pledged to the Count Palatine, and thereby lost its imperial status, shortly after Sigismund had granted a so-called *privilegium de non alienando* to the towns of the 1379 league and their former allies Kayzersberg, Turckheim, and Munster. That the imperial cities prized this *privilegium* is clear from the large number of copies (both contemporary and in the form of later *vidimi*) which survive in their municipal archives, and from the fact that, soon after Sigismund had issued this privilege, the towns renewed their oaths of alliance with one another.¹⁰⁶

The treasured legal status of the imperial cities in Alsace was the key context in which their league acquired its specific, and very durable, purpose, beyond the general regulatory aims which framed all associative activity. As imperially immediate entities, the cities were answerable only to the Empire and its administrative structures, and could benefit in return from the legal sanction of the kings and emperors of the Romans.¹⁰⁷ As components of the *Reichslandvogtei* of Alsace, based in Haguenau, the imperial cities already had a ready-made framework for collective activity, especially arbitration, which the alliance treaties served only to reinforce. There was a trade-off here, of course, in that the *Landvogt* wielded notional authority to which the cities were supposed to submit. In 1408 and again in 1423 the *Landvogtei* was pledged by the kings of the Romans to Count Palatine Ludwig III—one of the main threats to the cities’ independence, as the case of Seltz in 1418 indicates—and it remained in the hands of his descendants until the early sixteenth century.¹⁰⁸ If during the fourteenth century the relationship between the towns and the *Landvogt* had been fairly deferential, in the fifteenth it was more ambiguous, and frequently took on almost horizontal characteristics.¹⁰⁹ This is best

¹⁰⁴ Vogler, *Décapole*, pp. 343–53.

¹⁰⁵ CDM, i, 307.

¹⁰⁶ AMS AA80, AA102; AMH AA228, AA236; AMM Série I/458; AMC AA52.

¹⁰⁷ This was especially beneficial during Sigismund’s reign—see Chapter 10, pp. 207–8. It also came in useful in times of conflict, such as the 1469–71 Wissembourg war against the Count Palatine—see *RTA*, xxii, 125–245.

¹⁰⁸ *RI*, xi, no. 5447.

¹⁰⁹ This relationship is explored in depth in Hardy, ‘Reichsstädtische Bündnisse’, pp. 118–20.

exemplified by the way in which the *Landvogt* and his local appointees, the *Unterlandvögte*, functioned as allies alongside the imperial cities in *Landfrieden*, and in a 1465 coalition formed by the towns and Count Palatine Friedrich against the count of Lupfen, who had occupied Turckheim.¹¹⁰ The imperial cities' belonging to the *Landvogtei* also gave them a bargaining position from which to reject requests from the monarchs which did not appeal to them, all the while retaining their autonomy. For example, in response to a command from Frederick III to supply troops for a war against the duke of Bavaria in 1461, the imperial cities wrote: 'Unto us is given by the Holy Empire a "lantvogt" in Alsace... and since we are answerable to the Count Palatine as our "landvogt", it is not seemly for us, nor is it our customary obligation, to set out to war on behalf of the Empire, unless we are setting out with the same "landvogt", our lord, under the banner of the Holy Empire'.¹¹¹

It is an indication of the pervasiveness of associative political culture that the alliance template was deployed by the cities within this existing administrative situation, caught midway between imperial immediacy and subjection to a part-lord, part-ally. This combination of membership of the *Landvogtei* and membership of the league of cities within it helped to shape certain common institutions, and perhaps even a common identity, for the Alsatian towns in the course of the fifteenth century. There was a joint archive for the alliance, for example, which was kept in Sélestat.¹¹² The allied cities held frequent meetings (*Tage*), and by the 1490s these were minuted under such headings as 'Record ["Abscheid"] of the "tag" of the honourable council envoys of the collective cities belonging to the "Landtvogtie"', held on Tuesday after the Conception of the Virgin Mary, 1493'.¹¹³ This nomenclature, which emphasized the collective nature of the cities and their attachment to the *Landvogtei*, is also found in the labels attributed to their representatives at the imperial assemblies and diets.¹¹⁴ Perhaps the most enduring testament to the sense of community engendered by the ties between the Alsatian imperial cities is the iconographic programme on the 1480 *Koifhus* (customs house) of Colmar. The window panes on the top floor, which may have served as a meeting place for *Tage* held in the city, display the arms of each of the ten towns.¹¹⁵

Another long-term association which was made up of shifting constituent networks and developed its own 'internal' institutions was the Society of St George's Shield. Like the other knightly societies discussed in the previous section, it emerged through the coalescence of noble affinities, in

¹¹⁰ Ibid., p. 119.

¹¹¹ CDM, ii, 348–9.

¹¹² Hardy, 'Reichsstädtische Bündnisse', p. 104.

¹¹³ AMC AA52/23–7.

¹¹⁴ Richard, 'Décapole', p. 109.

¹¹⁵ Brunel and Larrière, 'Koifhus de Colmar', pp. 17–30.

this case over a large area extending from the *Rheintal* and the shores of Lake Constance to the heart of the Black Forest and the Swabian Jura. The origins of this association lie in the 1401–8 conflict between the communes of Appenzell and their allies on the one hand (the so-called ‘League above the Lake’) and the abbot of St Gallen and Duke Friedrich IV of Austria-Tyrol on the other.¹¹⁶ The nobles of the Hegau, west of Lake Constance, felt threatened by the Appenzeller war bands, and allied together. Soon afterwards a second alliance of nobles on the upper stretches of the Danube and in the Allgäu, east of Lake Constance, was formed. Soon the upper nobility on both sides of the *Rheintal*, notably the von Klingenberg, von Werdenberg, and von Montfort, were drawn into these constellations. In November 1407 these disparate groups ‘allied and leagued’ together through a formal treaty, which referred to them collectively as the ‘knighthood [“*ritterschaft*”] of Swabia’, and which listed over thirty members, including several counts and the bishops of Constance and Augsburg.¹¹⁷ Bishops and cathedral chapter members, who were typically related to the noble dynasties of the southern Empire, were regularly involved in these knightly associations.¹¹⁸ The avowed aim of the 1407 treaty was mutual military aid, especially against the Appenzeller. The captains (*hauptleut*) of the knighthood had defined roles in facilitating communication between members, setting up arbitrations, dividing booty, collecting funds, and approving alliances made outside of the association by individual members; captured towns and fortresses were to be administered jointly by all the members. This scheme was taken up in a renewed one-year alliance between these groups in 1413. This treaty described the association as ‘the Society of St George’s Shield’, with three component groups in the Allgäu, the Hegau, and the Upper Danube.¹¹⁹ From this point onwards the Society was renewed a further fourteen times throughout the fifteenth century, either in the form of one of these sub-groups (to which branches in Lower and Upper Swabia were added) or as a pan-regional alliance encompassing all four local groupings.¹²⁰ Throughout this time, and even when the Society joined the Swabian League in 1487, it retained this decentralized structure, in which the captains and their councillors (*Räte*) acted as military, financial, communicative, and mediatory nodal points within the network. Within this structure, the Society functioned as a highly populated and durable version of a classic alliance. There is plentiful evidence from outside of the treaties themselves

¹¹⁶ For this paragraph see Obenaus, *St. Jörgenschild*; Burmeister, ‘Sankt Jörgenschild’.

¹¹⁷ *UBASG*, iv, 823–8.

¹¹⁸ Obenaus, *St. Jörgenschild*, pp. 232–5.

¹¹⁹ *Ibid.*, p. 229.

¹²⁰ *Ibid.*, pp. 229–31.

that members of the knighthood drew on their association as a source of assistance and arbitration in feuds and disputes.¹²¹

The Society also provided options to its members which would not have been available to them in other contexts, especially the more humble knights and retainers. Within the Society, or one of the groupings that constituted it, its members could forge alliances with powerful political actors as a bloc, and they did so very frequently in the fifteenth century. As early as 1409 the margrave of Baden mentioned 'our alliance' in a letter to 'the captains of the Society of St George's Shield'.¹²² More would follow, and in the year 1469 alone Margrave Karl of Baden sealed alliances with both the Hegau and the Upper Swabian branches of the Society.¹²³ Other frequent princely allies included the dukes of Bavaria, the counts of Württemberg, and the dukes of Austria-Tyrol.¹²⁴ Urban allies included Constance, Schaffhausen, Überlingen, Lindau, Wangen, Radolfzell, Buchhorn, and Pfullendorf.¹²⁵ Naturally, in times of feud the allies within the Society also entered into states of enmity collectively, as against Duke Sigmund of Austria-Tyrol in 1490.¹²⁶ From an early stage the members of the Society were also capable of negotiating collectively through joint messengers, as at the imperial assembly at Frankfurt in 1427, at which they requested assistance against renewed uprisings of the Appenzeller.¹²⁷ The minutes of a 1489 meeting of the whole society (*Rittertag*) mention that 30 fl. were owed to one Ludwig von Emerßhofen 'for the horse that he rode to the Netherlands for us on behalf of the league ["puntz wegen"]'.¹²⁸ Specialists were hired quite early on by the captains to carry out the documentary aspects of the Society's internal administration and its interactions with outside powers. In 1433 reference was made to one 'Johannsen, scribe of our collective knighthood'.¹²⁹

By the end of the century the Society had also developed a financial system capable of funding the military, diplomatic, and para-judicial activities of the knighthood. Services were paid for up-front by the overall captain ('gemain hauptman'), who therefore had to be relatively wealthy. In the records of *Rittertage* at Reutlingen and Esslingen in the late 1480s, the captain, Count Ulrich V of Montfort, is said to have spent 643 fl. 11 s. 2 d. on the 'masters of the war wagons' ('wagenburgmaistern'), for which he was due to be reimbursed by the knighthood collectively.¹³⁰ Such reimbursements were provided by pooled funds raised through

¹²¹ Ibid., *passim*; see also e.g. GLA 123/98–98a, 237–9. ¹²² TLA Frid./9/4.

¹²³ GLA 46/767–8.

¹²⁴ Obenaus, *St. Jörgenschild*, pp. 236–45.

¹²⁵ Ibid., p. 124.

¹²⁶ GLA 123/393.

¹²⁷ KC, p. 201.

¹²⁸ GLA 123/576.

¹²⁹ Obenaus, *St. Jörgenschild*, p. 179.

¹³⁰ GLA 123/393.

contributions called 'stüren' ('taxes' or 'levies'), and plenty of letters confirming debts owed by various members of the society have survived.¹³¹ By the latter half of the fifteenth century these contributions were notionally annual, though in practice they were still paid through ad hoc credit networks which bound the various branches of the society to the captains who took on most of the expenditure.¹³² In this respect, the associative political culture of the Society of St George's Shield rested on the interconnective structures of credit noted in Chapter 4.

The Swabian League of 1487–1533 was in many respects a continuation and expansion of the complex associative structures and conventions developed by long-term alliances like the Society of St George's Shield. The key difference was that the League's purpose was partly driven by the agendas of the monarchical administration. In a sense it represented a revival of the fourteenth-century tradition of close royal involvement in the foundation of regional leagues, in that it was created on the orders of Emperor Frederick III.¹³³ At the 1487 diet in Nuremberg he issued an ordinance which culminated with the following command:

So we bid each and every one of you, whatever your status or rank, in the 'land' of Swabia, ordering gravely with imperatorial might, integrity, just knowledge, and personal emotion, that for the [ten-year] duration of our aforementioned 'landfriden' [of Frankfurt, 1486] you unite and league yourselves in an amicable treaty... and show one another assistance and support therein. And so that this undertaking [of an] alliance and league ['ainung und Puntnuß'] may be freer and more fruitful, and may remain in existence, if any of you are already, through oaths and promises, allied or committed, protected by, or related to someone outside of this alliance of ours, regardless of what that [relationship] is called, we fully abolish all of that henceforth... by the power of this letter.¹³⁴

It is likely that Frederick and his newly crowned son Maximilian were seeking to harness the remaining imperially immediate resources in the southern Empire at a time when their position there was in acute crisis because of the expansionistic policies of Duke Georg 'the Rich' of Bavaria-Landshut and the conquest of eastern Austria by Matthias Corvinus.¹³⁵ The core members of some existing Swabian networks—the league of free and imperial cities and the knighthood of Swabia—duly consulted one another and drafted a league treaty, which was soon ratified.¹³⁶ Within a few years a range of political actors, from minor powers like the Cistercian abbey of Salem, just to the north of Lake Constance,¹³⁷ to princes like the

¹³¹ E.g. GLA 123/1087.

¹³² Obenaus, *St. Jörgenschild*, pp. 187–95.

¹³³ See p. 102 above.

¹³⁴ *DPIP*, pp. 272–3.

¹³⁵ Carl, 'Bund', pp. 43–5.

¹³⁶ *UGSB*, i, 1–8.

¹³⁷ GLA 98/210.

margrave of Baden and the archbishop of Mainz, had joined the League, or at least become its allies (so-called *Zugewandten*).¹³⁸

Horst Carl's detailed study of the League members' activities has revealed a trans-regional association with the same format and priorities as other, far smaller, and shorter-term leagues and alliances.¹³⁹ The correspondence of the League members and the records of their consultative and arbitrational meetings (*Tage*) display the traditional concepts and activities which defined associative political culture—military assistance, mutual counsel, and collective resolution of disputes. They were sometimes infused with discourses about the need for reform for the common good of the 'Holy Roman Empire of the German Nation', which suggests that, in uniting rhetoric about peace and security with customary associative impulses, Frederick and Maximilian tapped into a fruitful vein.¹⁴⁰ However, the Swabian League was by no means a straightforward instrument of resurgent monarchical authority.¹⁴¹ Despite the optimistic expectation in the 1487 ordinance that members of the League should abandon all other associative ties, the Swabian League itself was really an amalgamation of existing alliances, which brought with them their own structures and methods. On the one hand there was the Society of St George's Shield, the complex workings of which we have already seen. On the other hand there was the association of Swabian towns, centred on the Ulm-Augsburg partnership, which had driven a consultative and cooperative political culture among the autonomous cities of the southern Empire for over a century.

The priorities of these pre-existing groups naturally shaped the dynamics of the new Swabian League. Rather than becoming pliable customers of the imperial judicial organs that Frederick III sought to develop from the 1460s onwards, these groups continued to rely on the feuding- and arbitration-based methods inherent in the alliance format. Where the arbitrational committees of the League felt that a case fell outside of their competence, they would at least reach a decision about the 'correct' (*ordentlich*) court to which the litigants should be referred.¹⁴² By the early sixteenth century, constant demand for mediation from League members led to a gradual institutionalization of the arbitrational apparatus, which took on civil lawyers trained in the south German universities, such as the humanist Johannes Reuchlin, as 'League judges' ('Bundtsrichter').

¹³⁸ Carl, 'Bund', pp. 45–7.

¹³⁹ For this paragraph see Carl, *Schwäbischer Bund*, chs 4, 7, 8.

¹⁴⁰ See Chapter 7, pp. 155–6.

¹⁴¹ For early examples of Frederick's failure to control the league, see TLA Sigm./14.1251.38–41.

¹⁴² Carl, *Schwäbischer Bund*, p. 372.

Reuchlin wrote of 1502, the year of his appointment: 'Now civil cases [in the League's court] were overflowing; I went back and forth endlessly in the arbitrational committee; I was in the midst of the councillors of the most powerful German princes; I was appointed to a position at the summit of the Swabian triumvirate ["TriumViratus Sueviae"—of judges], which I fulfilled thenceforth for eleven continuous years'.¹⁴³ In this respect, the Swabian League suggests that it was not only the so-called princely territories which underwent a process of institutionalization in the decades around 1500, but also the associative structures and practices which defined the political culture of the southern Empire.

It is in the context of these durable leagues of the Upper Rhine and Swabia that we should understand the Swiss Confederation. It is particularly important to include the Confederation in this survey, because it is almost always excluded from analyses of politics in the late medieval Holy Roman Empire, and is treated instead as an isolated, proto-national sphere. Like these other large and long-term leagues, the Confederation developed over the course of the fourteenth to sixteenth centuries out of many overlapping and often outward-facing associations, which were formal alliances in their own right. The long-term formation of the Confederation in this period, from the alliances of 1291, 1315, and 1351–3 to the 1481 Compacts of Stans and the admission of Basel and Schaffhausen in 1501, is well known, and will not be rehearsed here.¹⁴⁴ What is worth noting is that the Confederate treaties of these centuries were in most respects similar to those we have already seen. Like other leagues and alliances, they were committed to seal-authenticated, oath-bound *Urkunden*. More significantly, they drew on the same alliance format, with its emphasis on mutual assistance, especially in times of war, and collective pathways of mediation and conflict resolution, and they articulated these regulations using the same vocabulary and concepts.¹⁴⁵

The key difference between the Swiss Confederates and the other participants in the southern Empire's associative political culture was that the former's treaties were ostensibly eternal. Already in the 1351 league of Zurich, Lucerne, Uri, Schwyz, and Unterwalden it was asserted that the participants had sworn 'to hold and to have an eternal alliance with one another, which should remain unchanging and unbroken and in all respects without lapses, faithfully and firmly, for eternity'.¹⁴⁶ To these exceptionally strong bonds were added, in the later fifteenth century,

¹⁴³ *DPIP*, p. 454.

¹⁴⁴ A recent overview is Würgler, 'Eidgenossenschaft'.

¹⁴⁵ E.g. *AEA*, i, 260–3, 275–8, 285–8; *ibid.*, ii, 719–22; *ibid.*, iii.2, 1291–7.

¹⁴⁶ *Ibid.*, i, 260.

a discourse which valorized the associative ties between the Confederates in a uniquely affectionate language of 'brotherliness'.¹⁴⁷ Yet these features of the Confederation, interesting though they are, should not be allowed to obscure the potential for rupture and instability within its system of leagues—as revealed by the so-called 'Old Zurich War' of the 1440s.¹⁴⁸ Nor should the teleology of subsequent Swiss nationhood occlude the important associative bonds which the Confederates maintained outside of their league until the very end of the fifteenth century, even with their supposed arch-enemies, the dukes of Austria.¹⁴⁹ It is true that by the Swabian War of 1499 the Confederation was beginning to detach itself from the southern core of the Empire, which encompassed the rest of the Upper Rhenish and Swabian regions—though even for the sixteenth century, the gap between the *Eidgenossenschaft* and the *Reich* has recently been called into question.¹⁵⁰ In view of its similarities and connections with the rest of the networks of the Upper German sphere in this period, the Swiss Confederation is best understood as a particularly developed manifestation of an all-pervasive associative political culture. It is only because of unusual historical and geopolitical conjunctures that the Confederation eventually attained state-like characteristics in the early modern period, while long-term leagues in neighbouring regions did not.

ALLIANCES AND LEAGUES: A UNIVERSAL FORMAT IN THE SOUTHERN EMPIRE

It is clear from this comparative survey that the entire continuum of alliances and leagues, with all its shorter- and longer-term variants, was characterized by the same set of features. We have seen in example after example that formal associations in Upper Germany were all based to some extent on a traditional template. This was first and foremost about the regulation of military and judicial matters, primarily through mutual assistance and the use of agreed courts or mediators. These two hallmarks of associative political culture are examined in Chapter 6. More generally, all these formal associations were clad in conventions we encountered in Part I. Leagues and alliances of both the shorter- and longer-term variety were grounded in a culture of oath-taking, in which ritual modes of

¹⁴⁷ Schmid, 'Empfangsrituale', pp. 85–111.

¹⁴⁸ See Niederhäuser and Sieber, *Bruderkrieg*.

¹⁴⁹ See the *Erbvereinigung* with Sigmund of Austria-Tyrol in 1477, and the subsequent alliances and interactions with him and Maximilian: *AEA*, ii, 944–6; *TLA* Sigm./01.49.2–3, 06.03; *RTAMR*, i, 712–13, 726–30.

¹⁵⁰ Schmid, 'Sonderfall'; Maissen, *Staatsverständnis und Repräsentation*.

interaction intersected with lasting legal artefacts like seal-authenticated contracts. Diebold Schilling of Bern's 1484 'Chronicle of Spiez' offers a rare glimpse of what this performative side of associative political culture might have resembled in an illustration of the swearing of a citizen-alliance between the count of Kyburg and his family on the one hand and the municipal council of Bern on the other (Figure 9). Allowing for the idealized nature of the scene, and particularly for the suspiciously serene and dominant pose adopted by the Bernese councillors, it is likely that



Figure 9. Illustration (detail) from Diebold Schilling the Elder's *Spiezer Chronik* (1484) depicting the swearing of a *Burgrecht*-alliance between the family of the count of Kyburg and the city of Bern. Burgerbibliothek, Bern, Mss.h.I.16, fol. 152. Image from www.e-codices.unifr.ch under a Creative Commons license; used with permission

when treaties stated that ‘we have lovingly sworn an oath to God and the saints with raised fingers and prescribed words’ (to quote an example from 1391), the ritual looked something like this.¹⁵¹

Finally, in a bid to streamline their military and adjudicatory regulations, alliance and league treaties all specified the parameters within which they could—or could not—be invoked. Virtually all alliances allowed participants to exempt third parties from being targeted by the stipulations of the treaty, on the basis that these might be prejudiced if some alliance members had pre-existing ties to the parties in question. In most cases these *ausgenommen* (‘excepted’) parties had clear ties to one or more of the members of the alliance, but at times the list could be truly all-encompassing, naming the pope, the Holy Catholic Church in its entirety, and the king of the Romans, and long lists of princes, prelates, and cities, as in the case of a 1452 alliance between Count Palatine Friedrich and the bishop of Speyer.¹⁵² This legally excessive but rhetorically powerful flourish indicates how deeply ingrained was the need to factor in existing relationships. This was after all a highly interconnected world, in which it was not sufficient to address a single actor, because ‘those who are allied with him’¹⁵³—and even the ‘allies of the allies’¹⁵⁴—needed to be taken into account. Furthermore, the powers forging all these associations were not neat territories with closed borders, but the overlapping actors and entities observed in Chapter 4, whose authority rested on fragmentary agglomerations of rights, assets, and revenues, managed by semi-autonomous officers. It was therefore common for alliance and league treaties to employ broad disclaimers, such as ‘all those included in this alliance should remain in their privileges, liberties, good customs, and old traditions’, which enabled the participants to fulfil the treaties’ stipulations while navigating around these constellations of lordship.¹⁵⁵ For the more powerful princes and cities, whose *mouvances* were so large and scattered that the implementation of the terms of any alliance treaty would be delegated to quasi-independent officers and servants, it was vital that treaties address the interactions not only between the named participants—‘any of us’—but also between those in their affinity—‘any of our retainers or their people’.¹⁵⁶

These points in common between the different forms of alliance and league found in the southern Empire can only be fully appreciated in light of a comparative investigation such as this, unrestricted by assumptions about ‘estate’-based differences in ideology and practice, or about the inherently vertical nature of imperial politics. What this investigation

¹⁵¹ GLA 5/6917.

¹⁵⁴ GLA 21/44.

¹⁵² QGFDS, ii, 233.

¹⁵⁵ TLA Sigm./14.1118.

¹⁵³ GLA D/660.

¹⁵⁶ GLA 46/192.

has revealed is the absolute ubiquity of formal associations, which were evidently central to the operations of Upper German political actors, regardless of their status. Short-term alliances involved powers from across the socio-political spectrum, and any one power was typically involved in several such alliances at once. Longer-term leagues sometimes had a more homogeneous composition. For example, the Swabian and Alsatian leagues of free and imperial cities were predominantly or entirely urban, while the Society of St George's Shield mostly consisted of knights and noblemen, as well as the occasional bishop, abbot, or town. However, even the members of these more durable associations formed individual or collective alliances with political actors of different statuses. For instance, the league of Swabian cities had many princely and noble allies in the fourteenth and fifteenth centuries.

These various associations may have exhibited some differences in composition and duration, but they were clearly part of a continuum of alliance-like forms, based on a universal template defined by mutual aid, especially of a military nature, and agreed pathways of mediation or dispute resolution. We have already begun to see how the universal use of alliances and leagues was grounded in the shared participation of Upper German elites in the conventions and structures discussed in Part I. Formal associations both stemmed from and provided a regulatory layer over regional customs and practices in military, judicial, and occasionally even administrative matters. Associative political culture was therefore about both a shared format for relations between elites and a shared participation in a political landscape which fostered such a format. The chapters that follow will explore in more detail how this format sought to shape interactions between political actors, practically and discursively.

6

The Functions of Alliances and Leagues

Assistance and Adjudication

The evidence of associations in the southern Holy Roman Empire suggests that they were intended to function as a sophisticated means of regulating relations between their members. We saw in Chapter 5 that all types of alliance and league, including variants like knightly societies, were characterized by stipulations concerning mutual aid and pathways of dispute avoidance and resolution, and that these characteristics were present regardless of the context, composition, and duration of a given association. Having established that these functions were extremely common, it is important to examine them in more detail, in the articles of alliance and league treaties and in the activities of association members, insofar as we can access the latter through surviving correspondence and chronicle accounts.

In the sparse existing historiography of associations, they have mostly been studied in terms of their alleged 'legal' or 'constitutional' character, while the way in which they actually worked has not been of great interest to scholars of Germany and the Empire. For example, Peter Moraw's analysis of the 'Funktion' of alliances and leagues is primarily a discussion of their place in his constitutional scheme for the development of the Empire in the course of the thirteenth to sixteenth centuries, rather than a study of how these associations themselves operated.¹ Eva-Marie Distler's monograph focuses in some detail on the military and arbitrational functions of several later medieval alliances and leagues, and her analysis does yield some interesting insights into the ways in which these functions might have assisted municipal governments,² but she seeks to harness these to an argument about the inherently urban, egalitarian nature of what she calls *Städtebünde*.³ Surprisingly, the extensive scholarship of feuding in the German lands has engaged very little with alliances and

¹ Moraw, 'Funktion', esp. pp. 2–7.

² Distler, *Städtebünde*, pp. 103–218.

³ Ibid., *passim*, esp. pp. 1–10, 103–77.

leagues, even though formal associations were closely linked to this universal practice.⁴ Only case studies of individual leagues have provided a detailed impression of the practical operation of associations. The few studies of this kind—notably Herbert Obenaus's work on the Society of St George's Shield and Horst Carl's on the Swabian League—underline the centrality of cooperation in feuds and agreed judicial and arbitral methods for the practice of forming and maintaining alliances and leagues.⁵ This chapter aims to rectify the lack of a truly comparative study of the functions of alliances and leagues in the later medieval Empire by examining these defining aspirations and activities more closely.

The goals of all alliances and leagues can be divided roughly into two spheres of activity: the military or conflictual, and the arbitral or litigatory. In the former, associations seem to have aimed to promote assistance against threats to the shared interests of their members, while in the latter the imperative was to minimize disputes between associates, and to ensure that those that did arise were adjudicated according to agreed methods which would maximize the likelihood of an acceptable outcome for all involved. Each of these spheres will be considered in turn in this chapter. In order to make sense of them, it is important to be aware of the wider and deeper dynamics of Upper German politics. Associations were not self-contained entities. Rather, through the provisions of their binding treaties, associations established contractual layers over existing practices and structures which constituted the political culture of the Holy Roman Empire.

THE 'MILITARY' SPHERE: ASSISTANCE

Virtually all treaties which enacted alliances, leagues, and their variants called for cooperation between their members, which was expressed through a small lexicon of words and phrases related to the concepts of 'aid' or 'help', 'assistance', and 'counsel'. The authors of fourteenth- and fifteenth-century treaties often stated that allies would be 'beräten und beholfen' ('disposed to provide counsel and assistance') to one another.⁶ Instances of this phrase survive in treaties from the 1330s to the 1480s and beyond.⁷ The requirement of allies to help one another was often

⁴ For instance, the role and function of alliances are not considered in any detail in Brunner, *Land und Herrschaft*; Zmora, *State and Nobility*.

⁵ Obenaus, *St. Jörgenschild*; Carl, *Schwäbischer Bund*.

⁶ As spelled in *UBR*, p. 243.

⁷ E.g. *CDM*, i, 45, 87, 307, 309, 409; *USGÖA*, ii, 418; *DPIP*, pp. 281–4; *GHW*, iii.6, 204.

reiterated in specific clauses which linked the concepts of assistance to the parameters of the treaty: '[we] are bound to help ["ze helffende"] [one another] to the extent determined by our alliance',⁸ or 'to offer help and assistance ["hilff und bystand"] in such matters according to the stipulations of our alliance'.⁹ This cluster of much-repeated terms defined one of the two main purposes of associations. These terms were not coined deliberately for associative activities, but stemmed from widespread and deeply rooted discourses and practices, on and over which leagues and alliances were constructed. The vocabulary of 'counsel' and 'assistance' was anchored in a long-standing contractual culture shared throughout Latin Christendom in the high and late middle ages. For centuries the tenurial relationship between the grantor and recipient of a fief or *Lehen* was encased in reciprocal promises of mutual support (*consilium et auxilium*).¹⁰ By the fourteenth and fifteenth centuries these feudal formulae overlapped with the concepts of assistance in a feud. For example, the Golden Bull of 1356's legislation concerning fief tenure includes the injunction that, in the context of feuds by the recipients of fiefs against the granting lords, the latter no longer had to 'supply help, counsel, or favour' ('consilium prestant, auxilium vel favorem'/'rat, helffe adir gunst gebin') to the former.¹¹ Indeed, throughout the period under consideration, the phrase 'hilff und bystand' belonged first and foremost to the protocols of feuding. This phrase described the assistance that 'helpers' (*Helfer*) and 'backers' (*Gönner*) might provide to a party who was initiating a feud or on the receiving end of a *diffidatio* or *Absage*.¹² Compared to the frequently informal ties between feuding parties and their *Helfer* and *Gönner*, an oath-bound alliance provided a measure of security by formalizing obligations of mutual assistance. The customary concepts of 'hilff', 'bystand', and 'rat', which all political elites shared, were harnessed in league and alliance treaties to specific steps which members of these associations were expected to follow.

At the most basic level, allies agreed to aid one another in times of conflict, and not to assist or harbour one another's feud-enemies. For example, in the February 1488 treaty confirming Count Eberhard V of Württemberg's entry into the Swabian League, the existing members promised the following:

Should we enter a state of open/public feud and enmity with anyone, whoever they might be, on behalf of our oft-named gracious lord [Count Eberhard], we should not abandon, forsake, or separate from him, but, until

⁸ UBB, iv, 439.

⁹ UBF, ii, 555.

¹⁰ Patzold, *Lehnswesen*, p. 84.

¹¹ MGHCA, xi, 598–9.

¹² See Chapter 3, pp. 63, 67.

the matter is arbitrated, remain disposed to provide counsel and assistance as per the contents of this alliance, faithfully and honestly. Also, we and our people, and also our retainers/servants/officers and their people, and those who are in some way answerable to us, should not and do not wish knowingly to: contain, house, or host in our castles, towns, markets, villages, and districts; supply with food or drink; assist in dangerous endeavours; provide help, support, or assistance to; or give free-conduct, comfort, or security to enemies of our above-named gracious lord, but rather, we should and wish to take on such enemies of his, whatever the cause of the feud, to ensure that a rightful outcome be granted and brought about, without impediment and excuse, faithfully and honestly.¹³

Statements with similar wording are to be found in a range of alliance treaties from the 1390s to the 1490s,¹⁴ while the principle of aid against feud-enemies and other threats and the requirement not to support them in any way was shared by all alliances and leagues, including *Landfrieden* and knightly societies.¹⁵ Such articles reinforced in specific terms what the language of 'assistance' and 'counsel' had already signalled in general: that alliances and leagues functioned as a way of guaranteeing mutual aid in the feuds and wars which affected all Upper German actors.

The obligation to provide general support and avoid assisting enemies was only the most fundamental way in which formal associations shaped the options of their members in conflicts. Many alliances and leagues contained more precise and complex procedures for military cooperation. Some of these stipulations addressed the issue of consultation and decision-making in advance of military action. In Swabia and on the Upper Rhine in the late fourteenth century, leagues and alliances, including *Landfrieden* and knightly societies, were based on treaties which advocated discussions between associates in the event of an attack on any one member. Envoys were to be sent by the attacked party to other allies, either directly or via intermediaries (an emergency *Tag* in a major town, for instance, or a captain in a division of a knightly society), and the nature of the conflict and the appropriate counter-measures by the allies would be discussed.¹⁶ In some cases, discussion was dependent on the severity of the enmity that had broken out, and participants in a new feud were to exercise judgement in deciding whether to call for assistance and how much aid they needed. For example, the treaty sealed in 1378 between the imperial cities of Swabia, on the one hand, and Dukes

¹³ *GHW*, iii.6, 202–3.

¹⁴ E.g. *UBS*, vi, 458; *ADBR* G140/1; *AMS* AA54.

¹⁵ E.g. *UBS*, vi, 576; *UBASG*, iv, 827.

¹⁶ E.g. *UAODSB*, iii, 47–9, 63–4, 96–7; Beilagen 3, 11 in Ruser, 'Gesellschaften', pp. 49, 55.

Leopold III and Albrecht IV of Austria, on the other, stipulated that, if an enmity was declared against one party, the other was required 'to provide counsel and assistance to him/them, to the extent that we should lend and send out 100 honourable mounted men armed with lances' within fourteen days.¹⁷ If, however, the enemy was 'very large and powerful', such that 100 men-at-arms were not sufficient, several urban councillors were to meet with the dukes of Austria and their councillors to discuss how to proceed.¹⁸ Similarly, in the 1469 alliance treaty between the margrave of Baden and the Society of St George's Shield in the Hegau it was stated that if a feud affecting either party could not 'be halted or set right through a swift outcome', then traditional 'assistance and counsel' should be provided.¹⁹ If this help was to be on a large scale then a committee consisting of the captain of the Society and six to eight knights was to meet with the margrave's councillors to discuss their options; if a settlement did not seem imminent, men-at-arms (twenty from the Society or thirty-two from the margrave) could be despatched 'to where they are most needed' at the committee's discretion.²⁰ This sort of negotiation was entirely in keeping with the more general dynamics of the initiation, pursuit, and resolution of conflicts we saw in Chapters 2 and 3; feuding, mediation, and discussion of one sort or another were never far apart. In this sense, the 'assistance' clauses in formal associations represent an attempt to channel these interlocking forms of negotiation, in much the same way as the 'adjudication' clauses examined in the second half of this chapter.

The detail of how—and how much—military assistance was to be provided by allies who were 'beraten und beholfen' towards one another was the most variable element in association treaties. As we have just seen, they could specify exact quantities of troops to be levied in certain circumstances, but by no means all treaties did this; many stopped at the level of promises of mutual help and counsel, expressed in the ways noted above. Where alliances and leagues contained built-in obligations for the provision of troops, these tended to be determined by the relative strength of the participants. There might be a specification for the overall size of a joint army to be put together by the allies, with their respective contributions to be discussed on an ad hoc basis. This was the case in the 1395 *Landfriede* in Alsace which incorporated the bishop and city of Strasbourg, ten imperial cities, and the imperial *Landvogt*, Count Emiche of Leiningen. The *Landvogt* was to lead a combined force of thirty regiments ('glefen'), each consisting of ten mounted men-at-arms, with the respective contributions of troops and funds to be decided by a council

¹⁷ UAODSB, iii, 35.

¹⁸ Ibid.

¹⁹ GLA 46/767.

²⁰ Ibid.

of seven men representing the various allies, based on circumstances such as who had had a feud declared against them, whose lands were being defended, and so on.²¹ Other treaties established in minute detail the exact number of men and quantity of supplies to be furnished by each individual party. For example, the three-year alliance entered into by Duke Leopold IV of Austria-Tyrol, Margrave Bernhard of Baden, and Count Eberhard III of Württemberg in 1393 contained an extensive list of procedures to be followed in times of 'day-to-day war'.²² If any one party was attacked, the other two were each to send fifteen 'gleven' to a rallying point at Rottenburg am Neckar within fourteen days. The prince or lord who called for aid was to cover the maintenance of these troops for the period during which they assisted him in his war, including their accommodation and food, extending even to 'night quarters for every horse . . . and hay and straw as required'.²³ The 1423 alliance of the free and imperial cities of Alsace and the Breisgau and the Count Palatine similarly specified the exact numbers of divisions of men to be provided by each party, in proportion to their wealth and population. If any one member was attacked, they were to send the enmity-letter they had received to the other allies, and a joint army would be assembled within forty days, consisting of no fewer than forty 'glefen' from Strasbourg, thirty from Basel, twenty from the Alsatian cities collectively, fifteen from the cities of the Breisgau, and forty from the Count Palatine.²⁴ Bilateral treaties might contain simpler versions of these sorts of stipulations. In the 1458 alliance between Duke Sigmund of Austria-Tyrol and Count Ulrich V of Württemberg-Stuttgart, for example, it was stated that, in times of war, each party was obliged to provide the other with '200 mounted and well-armed people, funded and supplied by the one sending them'.²⁵

The stipulations of association treaties about mutual assistance against feud-enemies and the form it ought to take were not merely aspirational. While much of the evidence we have of potential cooperation between allies comes from the treaties themselves, there are sources which indicate that their terms were put into effect. At the most formal level, members of an alliance or league who had been attacked might send a seal-authenticated *Mahnungsbrief* ('summons-letter') to their associates, informing them of their need for help. For example, in 1353 an officer in the Sundgau called Volman von Pfirt sent a *Mahnungsbrief* to Freiburg on behalf of the duke of Austria, who had concluded an alliance with the imperial city a few years earlier.²⁶ In it, Volman informed Freiburg that

²¹ *UBS*, vi, 577.²² *GLA* 46/192.²³ *Ibid.*²⁴ *CDM*, ii, 36–7. See Chapter 10, pp. 209–11.²⁵ *TLA Sigm./13.519*.²⁶ See Chapter 5, p. 100.

two knights, 'Johannes von Vy' and 'Johannes von Valon', had attacked the holdings of the lordship of Austria, and spurned all attempts to find a judicial or arbitrated solution to their dispute with the duke and his administration in the Sundgau. This attack was said to fulfil the requirements for calling for aid 'as the alliance states', so Volman requested that Freiburg attack the two knights and remain in a state of enmity with them until they received word that peace or a settlement had been achieved.²⁷ Several of Volman's noble associates witnessed and authenticated the summons to war by swearing oaths that his claims were true, and they attached their seals to prove it.²⁸ Phrases like 'as the alliance states', also found in other formulations such as 'as the alliance documents actually show',²⁹ indicate clearly that the expectation of assistance was predicated on the shared participation of the sender and the recipient of a *Mahnungsbrief* in the regulatory framework of a treaty of association. Calls to arms in *Mahnungsbrieft* were apparently taken seriously, and allies were bound to respect them. When in 1488 Emperor Frederick III ordered Sélestat to join the Swabian League, the Alsatian imperial city replied that it could not comply because it anticipated difficulties fulfilling its duties as an ally. According to Sélestat's municipal council, while the towns, lords, knights, and prelates of Swabia were their 'especially good friends', the councillors could not see how allying with these last 'could possibly be of benefit to them or to us, seeing as the lands of Swabia and Alsace are separated by great distances', so that if Sélestat received a *Mahnung* from its allies, it could not 'come to [their] assistance' within the time limits stipulated by the treaty.³⁰ These protestations probably represent a rhetorical strategy deployed by the reluctant elites in Sélestat, but the fact that they felt that an inability to fulfil the duty of assisting allies in war constituted the best excuse to avoid joining a league is surely significant.

The written agreements that developed out of calls for assistance could set out in considerable detail how allies were to proceed militarily within the confines of what their treaty allowed and prescribed. For instance, on 27 May 1433 a coalition of noblemen including Duke Reinold of Urslingen, Count Heinrich of Fürstenberg, and several lords and knights invoked their alliance with Margrave Jakob of Baden in order to raise a force to besiege Schuttern, the castle of their feud-enemies Lords Diebold and Heinrich of Geroldseck, a month later (29 June).³¹ In their letter they determined that Margrave Jakob should provide 100 mounted men-at-arms and 400 footmen, including at least 100 crossbowmen and thirty handgunners, plus a large cannon and supplies of gunpowder and crossbow

²⁷ *UBF*, i, 425–6.

³⁰ TLA Sigm./14.985.

²⁸ *Ibid.*, i, 426.

³¹ *FUB*, vii, 442.

²⁹ *UAODSB*, iii, 111–12.

bolts, while the coalition would raise a similar force collectively. The entire force would be led jointly by two captains, one drawn from each side in the alliance.³² One of the most impressive documents to come out of formal correspondence between allies concerning mutual military assistance is an attack plan of 1446 against the Swiss Confederates, drawn up in the latter stages of the so-called 'Old Zurich War' by the margrave of Baden, the count of Württemberg-Stuttgart, the dukes of Austria, and the Society of St George's Shield.³³ These allies agreed to raise a combined force totalling 9,430 mounted men-at-arms and 15,800 foot soldiers. Only through the principles of military assistance within alliance and league treaties was it possible to levy such large armies in the politically and administratively fragmented Holy Roman Empire in this period, and this goes some way to explaining why even the most powerful princes continued to interact with their neighbours within the framework of associative political culture well into the sixteenth century.

The sources which result from requests for and the provision of assistance in feuds and wars, along with the narrative accounts of conflicts between shifting coalitions in some chronicles, offer a rich impression of the dynamics of alliance-based feuding.³⁴ They show that formal associations could work in practice, and that every kind of political actor in the southern Empire had to deal with alliances, leagues, and other forms of association on a regular basis. This was the case because formal associations were built into the fabric of political life in Upper Germany. They were intended to regulate features of the political culture which governed interactions between all elites, thereby shaping the outcomes of conventional forms of negotiation and conflict in ways which favoured those who managed to forge and maintain the most numerous and advantageous alliances.

THE 'JUDICIAL' SPHERE: ADJUDICATION

Alliances and leagues also had adjudicatory functions, which were just as important as their stipulations concerning assistance and military support. These adjudicatory functions were also embedded in the legal and judicial

³² Ibid. ³³ TLA Sigm./04b.55.106.

³⁴ For example, Jakob Twinger's account of the war between Strasbourg and its episcopal and princely neighbours in the 1390s (*COS*, ii, 684–97), or the depiction in Eikhardt Artzt of Wissembourg's chronicle of the 1458 feud between Heinrich Holtzapfell von Herxheim and the town of Landau, in which the latter called in dozens of allies including the margrave of Baden and the lords of Bitsch and Leiningen (*QGFD*S, ii, 200–5). For more examples, see the case studies in Chapters 9–12.

culture of the Holy Roman Empire. We saw in Chapters 2 and 3 that military and litigatory conflict were closely linked; feuding and arbitration were two intertwined facets of the constant negotiation which characterized political life in Upper Germany.³⁵ It would therefore have made little sense for alliances and leagues, as regulatory frameworks for political interaction, to address military matters but to overlook judicial ones. Just as allies were obliged to assist one another, so they were expected to restrict themselves to agreed channels for resolving their disputes with other participants in the formal association(s) of which they were members. Virtually all league and alliance treaties contained some kind of stipulation about how disputes among associates would be resolved, or at least what methods these associates ought to use to bring about a resolution. The extremely rare instances in which this is not the case nonetheless make allusion to collective pathways of adjudication. For example, a laconic treaty of alliance sealed by the counts of Fürstenberg and Sulz in 1410 is unusual in containing no articles dedicated to conflict resolution, but it does state that both sides should cooperate 'for the attainment of justice'.³⁶ The fact that it said no more than this was probably because the need for cooperation in adjudicatory matters was taken for granted.

Given that adjudication was an indispensable component of associative political culture, it was important for alliance and league treaties to cover a broad range of judicial eventualities. As we saw in Part I, most of the judicial options open to political elites in the Empire were arbitral in nature, whether they took place through ad hoc committees of mediators or in more institutionalized courts acting as 'civil' resorts. These options were functionally similar, and a given cluster of disputants might make use of several in sequence, or even simultaneously. Formal associations therefore had to be quite vague and general about the kinds of dispute which they sought to regulate, so that their stipulations minimized the chances of redress being sought from external authorities in ways which might destabilize relations between members. Indeed, references to judicial conflicts and litigation in alliance and league treaties were deliberately broad and all-encompassing. For example, the grounds for resorting to agreed adjudicatory measures in a 1405 alliance between Duke Friedrich IV of Austria-Tyrol and the city of Constance were very open-ended:

So that this alliance and union between us may henceforth on both sides be maintained with goodwill, we have also agreed that if we the above-named [people] of Constance should, collectively as a city or through any of ours

³⁵ See esp. Chapter 3, pp. 65–7.

³⁶ GLA 9/212.

and those answerable to us, at any point in the duration of this alliance, enter into any dispute or attain any claim with or against the above-named lordship of Austria itself or any of its vassals/servants, be they counts, lords, knights, or retainers... for such an eventuality we have elected [named arbitrators] for us and our people.³⁷

Not all formulae in alliance treaties were so expansive, but most that survive from the fourteenth to sixteenth centuries employed a small cluster of broad concepts which acted as blanket terms for any kind of litigation, dispute, complaint, or claim. One common formula used in this period (with many minor variations) was: 'Wanne hat ieman under uns... mit dem andern iht zu schaffen oder sie ane zu sprechen, in welchen weg das were...' ('If anyone among us should have anything to work out with or claim against another, in whatever way/form that might be...').³⁸ Other comparable phrases include 'mitainander stossig wurden' ('should enter into a state of dispute with one another')³⁹ and 'spruch und vordrung gewonnen' ('should obtain a demand and claim').⁴⁰ What these broad and generic phrases show is that formal associations aspired to shape a sphere of political activity—justice and litigation—which was of vital importance to the entire political elite. Alliance and league treaties evidently aimed to regulate all the means by which political actors negotiated their constant disputes with one another.

The ways in which alliance and league treaties sought to achieve this goal varied, but they were always rooted in existing customary practices and institutions which were widely viewed as legitimate. The most common method of resolving the myriad forms of conflict regulated by treaty stipulations was ad hoc mediation, which was a universal and extremely frequent (para-)judicial format.⁴¹ The arbitration was usually supposed to be provided by members of the association, either in person or via their councillors and other respected followers and employees. This procedure was built into all the alliances and leagues, knightly societies, and *Landfrieden* of the fourteenth and early fifteenth centuries. In many treaties the pattern was virtually the same: members of the association would furnish mediators, who were usually drawn from participants in numbers roughly proportionate to their power and prestige, and these men would form a committee or council (usually designated by the *frühneuhochdeutsch* word *Gemein*) which would meet as a court of sorts (*Tag* or *Gericht*) whenever

³⁷ *USGÖA*, ii, 420.

³⁸ *UAODSB*, iii, 67; see variations in *UBR*, p. 255; *GLA* 46/192.

³⁹ *GLA* 5/6917. ⁴⁰ *TLA Sigm.*/13.519; see also *DPIP*, p. 282.

⁴¹ See Chapter 2, *passim*.

disputes arose in order to provide arbitration.⁴² For example, a 1366 *Landfriede* in Alsace called for the appointment of 'thirteen reputable men',⁴³ selected from the various participants: two each from the bishops of Basel and Strasbourg, the administration of the dukes of Austria in the Sundgau, the *Vogt* of Riquewihr, the city of Strasbourg, and the imperial cities of the 1354 league ('Décapole'), together with one from the city of Basel. They were 'to come together in Colmar' in order to 'adjudicate the complaints/lawsuits brought before them because of the *Landfriede*'.⁴⁴ Similarly, the 1379 renewal of the league of imperial cities in Alsace stated that nine 'gemein lute' (i.e. arbitrators) should 'unanimously provide judgements and speak justice concerning all matters brought before them because of this league'.⁴⁵ Colmar and Hagenau each provided two of the nine arbitrators, and the remaining five represented the six other cities. Comparable stipulations for the selection of respectable arbitrators from all sides, who should meet at *Tage* in defined locations, can be found in the treaties drawn up by the various Swiss Confederates in 1351–3, 1408, 1421, 1423, and 1450.⁴⁶ Members of the knightly societies of the late fourteenth century and the Society of St George's Shield throughout the fifteenth century also relied on mediation from within their associations, though in these formations it was conducted by the captains or men selected by them, sometimes organized into 'chapters' ('cappitel'), at appointed *Tage*.⁴⁷

These provisions for 'internal' arbitration worked according to the same principles in bilateral alliances, but had to be adapted to function in a context in which there were no third parties within the association to act as mediators. Sometimes figures outside the alliance were named,⁴⁸ but it was more common for both sides to provide a certain number of men—usually 'councillors' or 'counsellors' (*Räte*) from within their respective administrations—to form a panel of arbitrators. This was the case in the bilateral Confederate alliances—between Bern and Lucerne in 1421 and Bern and Zurich in 1423—noted above.⁴⁹ Another example is the 1412 alliance between Duke Friedrich IV of Austria-Tyrol and Basel, in which provisions were made along these lines in the event of any kind of dispute between Austrian subjects and affiliates and the citizens and subjects of Basel. A 'gemeiner manne' (a kind of head arbitrator), selected from

⁴² On the judicial meaning of *Gemein* as a neutral arbitral committee, see 'Gemein', in *Rechtswörterbuch*, iv, 118–20, under definition XXII.

⁴³ *RUB*, ii, 27.

⁴⁴ *Ibid.*

⁴⁵ *CDM*, i, 308.

⁴⁶ *AEA*, i, 261, 276, 287, 338–9; *ibid.*, ii, 720–1, 725, 861–2.

⁴⁷ Beilagen 11–12 in Ruser, 'Gesellschaften', pp. 54–5, 59–60; *UBASG*, iv, 827; Obenaus, *St. Jörgenschild*, pp. 94–5.

⁴⁸ E.g. *RUB*, iv, 198.

⁴⁹ *AEA*, ii, 720–1, 725.

Basel's municipal council by the party initiating the dispute, was to appoint 'one or two arbitrators ["schideman"]' from within both allied governments, and the three to five men would form a court-like committee which would resolve the matter.⁵⁰ Similarly, in the 1477 alliance between Margrave Christoph of Baden and Count Eberhard V of Württemberg-Urach, disputes between the two rulers or any of their affiliates or subjects were to be arbitrated at a para-judicial *Tag*, presided over by 'arbitrational councillors' ('schidlichen rete') drawn from both princely administrations, to be held within one month at Pforzheim (if the complaint was against Christoph's side) or at Tübingen (if it was against Eberhard's side).⁵¹ This treaty stipulated a fall-back solution if no satisfactory outcome could be achieved at this *Tag*: another arbitrational meeting within a further month, this time to be conducted by a trusted third party, namely Bishop Matthias of Speyer.⁵²

Because their procedures could be more tightly defined than in multi-lateral alliances and leagues, the adjudicatory methods set down in bilateral alliance treaties often discussed in some detail the judicial pathways to be followed by disputants. Thus, an arbitrational committee set up according to the terms of the 1412 treaty between Basel and the lordship of Austria was to consider 'both sides' claims, arguments, counter-arguments, letters, [and] evidence', and establish whether they 'could attain a friendly solution'; if not, the committee was 'to pass a judgement... unanimously or by majority voting'.⁵³ In other words, the committee was either to find a compromise (*Minne*) or to issue a judicial verdict (*Recht*), and to reach either outcome it had to function in the same way as any arbitrational panel or court. This vocabulary was taken straight from the arbitration and mediation that took place more generally in the Holy Roman Empire, in improvised and institutionalized settings alike, as we saw in Chapter 2.⁵⁴ These conventions were still in use in alliance treaties in the latter half of the fifteenth century. In the 1477 alliance of Margrave Christoph and Count Eberhard, the five arbitrators who were supposed to preside over any *Tag*e called at Pforzheim or Tübingen were to 'hear claims, replies, counter-arguments, responses to counter-arguments, and whatever else it seems necessary for either side [to raise] in the litigation', and, through a unanimous or majority decision, to reach an outcome 'amicably' or 'according to justice'.⁵⁵ Articles of this sort, using similar wording, can be found throughout late fourteenth- and fifteenth-century

⁵⁰ *UBB*, vi, 75.⁵¹ GLA 36/2377–8.⁵² *Ibid.*⁵³ *UBB*, vi, 75.⁵⁴ Compare the quotations in this paragraph with those in Chapter 2, pp. 50–2.⁵⁵ GLA 36/2377–8.

bilateral treaties.⁵⁶ Clearly, the forms of judicial negotiation employed widely by Upper German political elites were also imported directly into their formal associations. This is hardly surprising, since these associations did not seek to bring new practices into being, but rather to regulate pre-existing ones through binding contracts, in the absence of an overarching authority capable of doing this on behalf of the multitude of local and regional powers.

While most alliances and leagues employed the judicial and arbitral methods common to political life in the Empire in order to create their own ad hoc mediatory institutions, others, especially from the second half of the fifteenth century onwards, also sought to navigate pre-existing courts and jurisdictions, and sometimes referred their members to these in the event of disputes. This might take the form of an additional adjudicatory layer in a treaty, alongside conventional arbitration. For example, in 1440 a *Landfriede* encompassing numerous princes, prelates, nobles, and towns in and around Swabia, the Black Forest, and Lake Constance was proposed (but ultimately never realized). The primary means of resolving conflict within the association was to be through chosen councillors acting as arbitrators. However, complex litigation between the subjects of participating powers was assigned to 'those courts to which they belong, or in the jurisdiction in which they are based'.⁵⁷ Similarly, the 1469 alliance treaty between Margrave Karl of Baden and the Society of St George's Shield in the Hegau stipulated three judicial channels that members, subjects, and affiliates of both parties could pursue, depending on their status and the nature of their dispute. The first two options were the standard selection of arbitrators from among the administrators of the participating powers and mediation via an external third party. The third option pertained to 'people who are subject to [the jurisdictional authority of] courts', as well as to disputes over fiefs and inheritances.⁵⁸ These cases were to be judged in the most appropriate customary or feudal court. A comparably tiered system featured in the 1488 foundational treaty of the Swabian League. While most disputes were referred to the League's mediatory court,⁵⁹ it was envisaged that some would fall outside of its competence: 'Should conflicts arise over criminal matters, inheritance, personal property, or fiefs, they should be resolved in the authorities in which they occur and to which they pertain'.⁶⁰

⁵⁶ See e.g. some alliances of the bishops of Strasbourg: ADBR G134/2 (1392), G140/1 (1444), G142/5–6 (1465), G143/5 (1468), G153/6 (1490).

⁵⁷ *RTA*, xv.1, 382.

⁵⁸ *GLA* 46/767.

⁵⁹ See Chapter 5, p. 117.

⁶⁰ *DPIP*, pp. 294–5.

Such stipulations suggest that some attention had to be paid in association treaties to more static and consolidated institutions and jurisdictions in the latter half of the period with which we are concerned. Increasingly, there were established spheres of influence, mostly affecting weaker and lower-status actors like the subjects and retainers of association members, which could not be circumvented by the ad hoc judicial apparatus brought into being by alliances and leagues. This change was gradual, and its significance should not be exaggerated. All treaties which allowed for the use of existing courts also mandated pathways of internal or third-party arbitration. Furthermore, some very late treaties continued to offer only improvised methods of mediation to their members. The 1493 renewal of the 'Lower Union' of four Alsatian towns and the bishops of Basel and Strasbourg, plus King Maximilian in his capacity as archduke of Austria, was one such treaty. As in the fourteenth-century *Landfrieden* and leagues, disputes were to be solved through the selection of a 'gemeynen' committee, staffed by arbitrators furnished by members of the association; and as in the other alliances we have seen, this committee would act as a court, hearing the evidence and reaching a compromise or judgement.⁶¹ It is also worth remembering that the more institutionalized customary, feudal, and urban courts to which some conflicts were being referred by the late fifteenth century were not so different from ad hoc arbitrational meetings.⁶² For most members of the political elite, these were effectively 'civil' resorts, with little binding authority or capacity to enforce their judgements. Whatever their precise judicial stipulations, the goal of all formal associations remained the regulation of the polycentric, loosely organized, and highly negotiated methods of adjudication which characterized political life in the southern Holy Roman Empire.

As with military assistance, there are sources which demonstrate that the adjudicatory stipulations of alliance and league treaties functioned in practice. Evidence attesting to arbitration between two members within the framework of a formal association survives in abundance from the larger and more durable leagues. Because they lasted a long time, and led to the creation of consolidated archives, many of the records produced within them have been preserved. The Generallandesarchiv Karlsruhe alone houses numerous cases from within the Society of St George's Shield. In 1438, for example, arbitrators in the 'ritterschaft' of St George's Shield resolved the high-profile inheritance dispute between Counts Eberhard and Heinrich of Lupfen, two members of the Society.⁶³ By the 1460s, multiple simultaneous arbitrations can be identified within the corpus of documents bound

⁶¹ AMS AA54.

⁶² See Chapter 2, pp. 50–2.

⁶³ GLA 9/890–1; see Oka, 'Erbschaftsteilung', pp. 215–40.

together in the archives of the divisions of the Society in the Hegau and Upper Swabia, many of which were overseen by the same well-connected captain, Count Georg of Werdenberg-Heiligenberg.⁶⁴ Similarly, from the 1490s onwards the Swabian League oversaw a great deal of judicial activity until its effective dissolution four decades later. Horst Carl's reconstruction of the League's functions has uncovered a wealth of evidence of arbitration within this sprawling association, for matters ranging from the theft of horses to the ownership of the entire north-eastern Swabian town of Wemding.⁶⁵ Still more numerous are the sources that survive from judicial processes among the Swiss Confederates, who offered one another mutual mediation in a range of issues at appointed *Tage* throughout the fourteenth and fifteenth centuries, and indeed beyond, as established in the nexus of treaties which bound them to one another.⁶⁶

For shorter-term alliances, the evidence of 'internal' arbitration in practice is patchier. Whereas the invocation of terms of mutual assistance can be traced in surviving *Mahnungsbriege* and joint military plans, the records and outcomes of judicial proceedings pursued according to the stipulations of alliance treaties lack features which make them easily distinguishable from mediation and arbitration in general. Sometimes it is possible to infer from the context that a given *Tag* was held to resolve a dispute between allies in the manner specified in a treaty they had recently signed. For instance, in May 1479 the margrave of Baden and the count of Württemberg-Urach had their dispute over capital jurisdiction in the village of Malsch arbitrated by the bishop of Speyer.⁶⁷ Given that, as we just saw,⁶⁸ the five-year alliance they signed in 1477 determined that the two princes were to turn to this prelate as a third-party mediator if no other solution to their litigation could be found, their submission of their case to him in 1479 must constitute the fulfilment of this stipulation. In addition to such clear-cut cases, there are many instances of mediation involving several parties from one association and an 'external' litigant. These did not conform strictly to the terms of alliances and leagues since, as we have seen, their treaties were primarily aimed at resolving internal disputes. At the same time, it is difficult to escape the conclusion that associative ties played a role in shaping the composition of arbitrational panels in these situations. In 1417, for example, a conflict between Sélestat and the abbe of Andlau over jurisdictions in the town of Kintzheim was

⁶⁴ GLA 123/98–8a, 237–8a.

⁶⁵ Carl, *Schwäbischer Bund*, chs 4, 7 (range of cases at p. 405).

⁶⁶ E.g., among many other examples, *AEA*, i, 90–1, 128; *ibid.*, ii, 112, 289; *ibid.*, iii.1, 167–8, 516.

⁶⁷ GLA 36/2380.

⁶⁸ See p. 134.

resolved before a committee of six mediators. These men were sent collectively by the towns of Colmar, Haguenau, Mulhouse, Munster, Obernai, Rosheim, Turckheim, Kayzersberg, Wissembourg, and Seltz—that is, ten members of the league of imperial cities in Alsace as it stood in 1417.⁶⁹ Given that the only other member was Sélestat itself, the association that united these cities cannot have been incidental to the selection of mediators from among their municipal councils, even if arbitration in disputes with outsiders was not explicitly foreseen in their treaties. That contemporaries recognized the potential of such ties is illustrated by a 1466 dispute between Lord Heinrich of Klingenberg and a parish priest and subject of Zurich called Hans Nadler. Zurich's government mooted the possibility that the affair might be arbitrated by members of the Society of St George's Shield in the Hegau in a letter to its captain, Hans Jakob von Bodman, on the basis that 'the above-mentioned [lords] of Klingenberg are in an alliance with you'.⁷⁰

It was relatively rare for the notion that associative ties facilitated the resolution of disputes to be articulated in writing in this way, but there are plenty of surviving sources that allow us to link a particular instance of litigation to a particular alliance. Such sources provide some insight into the relationship between the adjudicatory functions of formal associations and the wider political landscape which gave rise to them. The signatories of league and alliance treaties were not consciously seeking to create an alternative set of institutions or jurisdictions in an attempt to construct an egalitarian, horizontal alternative to the prevailing 'monarchical-aristocratic' forces in the Holy Roman Empire. Insofar as they brought 'internal' systems geared towards the needs of their members into being, the arbitral stipulations of alliances and leagues drew on a widely used set of vocabularies and customs in order to emphasize their own conventionality and legitimacy. In other words, these stipulations aspired to bring a degree of order and regulation to the judicial and negotiatory activities of networks of interconnected political elites. The first layer of regulation was generally inward-facing, in that its procedures relied solely on judicial personnel from within the association; the evidence from the larger leagues, at least, shows that such systems could be effective and popular. However, it is clear that no alliance or league treaty intended adjudication to be an entirely self-contained process, especially by the mid- to late fifteenth century, when articles concerning third parties and pre-existing courts were increasingly included as second or third regulatory layers. Perhaps most importantly of all, as the examples of the Alsatian imperial

⁶⁹ AMS BB26.⁷⁰ GLA 123/238, letter no. 6.

cities in 1417 and the Society of St George's Shield in 1466 show, ties of alliance not only influenced the dynamics of relations between members of a given association, but also spilled back into the wider nexus of conflictual and cooperative relationships which constituted political life in the southern Empire.

CONCLUSION: ALLIANCES AND LEAGUES
AS PRODUCTS OF AND REGULATORY
FRAMEWORKS FOR UPPER GERMAN
POLITICAL CULTURE

The ways in which alliances and leagues dealt with the two spheres of activity with which they were primarily concerned—the military and the judicial—yield important insights into the place of associations within the political landscape as a whole. As we saw in Part I, political life in the southern regions of the Holy Roman Empire consisted in large part of constant processes of litigation and para-judicial negotiation over assets, rights, revenues, and jurisdictions. In the shared political culture of the Upper German lands, litigation and negotiation were mediated through cycles of feuding and arbitration within networks of diverse political elites. In addressing feuding and arbitration, formal associations aspired to shape the practices which were at the very heart of politics. From this perspective, the concern, voiced by Moraw and others, about the lack of 'institutionalization' exhibited by associations in the Empire misses the point.⁷¹ Although they could give rise to durable institutions, as in the cases of the Alsatian imperial cities, the Swabian League, and the Swiss Confederation, associations were primarily frameworks, not institutions (in the sense of fixed administrative apparatuses). Any given political actor might be a member of several associations at once, and most were of a short duration.⁷² The stipulations in league and alliance treaties, and the evidence of how their members actually interacted with one another and outside parties, suggest that their goal was to channel, harness, and reinforce the surrounding dynamics and ways of doing things, rather than to create 'alternative' modes of politics, self-contained entities endowed with their own *Verfassungen*, or free and egalitarian Germanic communities.

Alliances and leagues, then, were not only very numerous and widespread, as we saw in Chapter 5, but they also regulated matters of fundamental importance. Day-to-day political activities stimulated the use of shared

⁷¹ Moraw, 'Funktion', pp. 6–7.

⁷² See Chapter 5, p. 96 and *passim*.

relational formats like alliances and leagues, and so formal associations became and remained central to many aspects of government and the exercise of power. Just as alliances and leagues cannot be understood outside of the broader context of the ideas, conventions, structures, and practices examined in Part I, so political culture in the Empire cannot be understood if associations are not included in the picture; it was truly an 'associative' political culture. Furthermore, associations defined this political culture in other ways, which go beyond the functions discussed in this chapter. Alliances and leagues, and their myriad variations, were closely related to certain shared discourses and ideologies. A broad interpretation of what constituted an association also reveals yet more spheres of activity in which mutually dependent political actors relied on contractual relationships and regulations. It is to these aspects of associative political culture that we must now turn.

Associations and the Discourses of Peace, Common Weal, and Empire

While formal associations mostly contained functional stipulations, intended to shape their members' interactions, they were not devoid of ideological and discursive content. Virtually all the treaties which resulted from the creation or renewal of leagues, alliances, *Landfrieden*, and knightly societies in the course of the fourteenth to sixteenth centuries contained prefaces of some sort. These linked the associations in question to concepts such as peace (*Friede*), necessity (*Notdurft*), the common good (*gemeiner Nutz*), the land or region (*Land*), the Empire (*Heiliges Römisches Reich*), and the German nation (*deutsche Nation*). The fact that the writers of association treaties chose to employ this type of vocabulary is significant. It shows that alliances and leagues were not perceived purely as pragmatic tools. They also involved appeals to moral and political ideas and identities. These were discursive strategies which signalled that the nature and aims of a given undertaking belonged to the highest and most public layer of political activity in the imperial polity. This suggests that associations helped to define the political culture of the southern Empire in every sense of the word 'culture': not only did they shape relationships and modes of interaction, but they also tapped into the most powerful political ideas and discourses of their time. Any attempt to understand the place of associative activity in the late medieval and early modern Empire needs to take this ideological dimension into account.

The presence of this politicized language in associative contexts has received relatively little attention in existing work on alliances and leagues in the Empire.¹ Indeed, there is not much scholarship on political discourse in the Holy Roman Empire in this period. This is surprising in that

¹ The invocation of the common good ('gemeiner Nutz[en]') is mentioned in passing in Obenaus, *St. Jörgenschild*, p. 90; Moraw, 'Funktion', p. 11. Distler briefly discusses the concept of peace in treaties, linking it to Augustinian and medieval values—Distler, *Städtebünde*, pp. 175–7; see also Oexle, 'Friede', pp. 115–50. Similarly, Carl mentions the priorities of peace and justice, of which 'gemeiner Nutzen' was in his view a mere reformulation in the context of the Swabian League—Carl, *Schwäbischer Bund*, pp. 365–7.

German historiography has a long tradition of *Begriffsgeschichte*, and scholars working within this tradition—Otto Brunner foremost among them—have addressed, on a general level, concepts that appear frequently in medieval and early modern sources, like peace, justice, and the common good.² Some of these studies predate the ‘linguistic turn’ by several decades. Yet the existing work on political concepts in German-speaking Europe rarely pursues the socially contingent meanings they might have had in varying literary and documentary forms. *Begriffsgeschichte*, particularly in the work of Brunner, has rightly been concerned with the wording of sources in its attempt to reconstruct past mentalities, but it has a tendency to impute universal and timeless qualities to these terms. The only monograph-length study of the concept of *utilitas publicae* *gemeiner Nutz*, for example, traces this ‘theoretical construct’, in all its lexical and semantic variations, from Antiquity up to the early modern state, mostly within the traditional canon of medieval political thinkers.³ This is a worthwhile exercise in itself, but for the fourteenth to early sixteenth centuries the specific social uses of this concept in more prosaic and performative texts (treaties, legislation, polemical tracts, and so on) are still largely uncharted.⁴ This is also true of the other terms mentioned above, with the exception of that of the ‘German nation’.⁵ Scholarship of other regions of Europe has shown that our understanding of a given polity and society can be enhanced by paying close attention to patterns in political discourse.⁶ The task that remains is therefore twofold. It is necessary not only to examine the neglected ideological preambles in association treaties, but also briefly to consider the other sources in which similar discourses were deployed and their contexts. This will in turn shed light on the significance that at least some actors imputed to associations, providing new insight into their role in the political culture and order of the Holy Roman Empire.

² See e.g. Diehl, ‘Gemeiner Nutzen’, pp. 265–95; Brunner, *Adeliges Landleben*, pp. 249–51; Brunner, *Land und Herrschaft*; Hibst, *Utilitas publica*; Blickle, ‘Begriffsbildung’, pp. 15–16.

³ Hibst, *Utilitas publica*—‘theoretisches Konstrukt’ on p. 122. See also Kaminsky, ‘bonum commune’, for the same tendency.

⁴ An important exception is Rogge, *Politikverständnis*. On the polyvalence and instrumentalization of the term in early modern Germany, see Nowosadtko, ‘Fauna’, p. 324; Roper, *Household*, pp. 73, 163.

⁵ This term has received extensive attention in recent decades, after a post-war phase in which its study was taboo. See especially Dickens, *German Nation*; Ehlers, ‘Nation’; Sieber-Lehmann, *Burgunderkriege*; Hirschi, *Nationen*. On the theme of late medieval German identity more generally, and its myriad expressions, see Scales, *Identity*.

⁶ For example, this approach has provided important new insights into political life in later medieval England. See Watts, ‘Ideas’, pp. 110–33, ‘Pressure’, pp. 159–80, ‘Public or Plebs’, pp. 242–60.

The concepts noted so far were the central components of the political discourse exhibited by association treaties, so they require close attention. However, it should be noted that these concepts were rarely used individually, or in a way which emphasized one of them in particular, in any single association treaty. Rather, the authors of these treaties seem to have developed and then redeployed and refashioned formulae in which clusters of concepts were used. For example, in 1362 an alliance was formed by the abbot of Murbach, the bishops of Strasbourg and Basel, the Austrian administrators in Alsace and Swabia, several counts, the imperial *Unterlandvogt* in Alsace, and the free and imperial cities on the left bank of the Rhine plus Freiburg. The immediate cause of the union was the threat of pillage by marauding bands of soldiers from the west—or, as the authors of the treaty put it, ‘the gathering of people and hosts in the kingdom and land of France who are called in common parlance the “Engellender”’.⁷ Before getting to this specific issue, the treaty’s preamble evoked a series of much more general concerns and notions. It claimed that the allies had come together ‘collectively and unanimously because of the wellbeing and necessity of the lands, zones, and areas, with their districts, named hereafter, and additionally that of all people, rich and poor, residing within them, and especially our own people and all those who belong to us’.⁸ A century later, in April 1468, an abortive alliance was drawn up between the bishops of Basel and Constance, the duke of Austria-Tyrol, the cities of Basel, Solothurn, and Fribourg, and Bern, Zurich, Lucerne, and the other Swiss Confederates. This was probably an attempt to bring together these various powers in the wake of recent tensions (which ultimately failed as the ‘Waldshut war’ broke out a few weeks later).⁹ Those who drew it up chose to justify it in the following terms:

that henceforth, for the sake of the honour of God and also the common good and necessity and for our own wellbeing, we have deemed with timely resolve that peace, reconciliation, and unanimity would deliver benefit and mutual affection to us and also to the lands and peoples collectively, and to nomadic and settled, domestic and foreign, spiritual and temporal people alike, and that dissensions and damage would thereby be eliminated, whereby the roads of the Holy Empire would hereafter be set free[.]¹⁰

The linguistic and ideological similarities between these two treaties are striking considering the chronological gap between them and the very different circumstances in which they were written. Furthermore, while

⁷ CDM, i, 261.

⁸ Ibid.

⁹ See Chapter 11, p. 217.

¹⁰ UBB, viii, 251–2.

not all preambles were as elaborate as that in the 1468 draft, comparable politicized and moralizing discourses are to be found in the prefaces to almost all association treaties which survive from the mid-fourteenth to early sixteenth centuries. Not all mentioned God, peace, affection and cooperation, nearby lands and peoples, the common good, necessity, or the Empire and its local manifestations; however, a great many justificatory formulae invoked at least two or three of these notions.

It is this clustering together of key items of politicized vocabulary which is significant for making sense of the place of alliances, leagues, *Landfrieden*, and knightly societies in the Empire's political culture. Individually, words like 'peace', 'common weal', and 'Empire' were commonplaces that might be encountered in any number of contexts in this period. It was much rarer for later medieval actors to interweave them within a single manifesto-like statement of purpose. Indeed, there was only one other context in which these concepts were deployed simultaneously in German-speaking Europe: in the official documentation which surrounded and proceeded from the monarchy, the imperial diets (*Tage*), and other institutions and events which claimed an Empire-wide relevance for themselves. In exploring the wider patterns of political discourse in the Holy Roman Empire, we will see multiple examples of clusters of these concepts in imperial summonses, proclamations, consultations, legislation, and *Abschiede* (the records and outcomes of the collective *Tage*).

The fact that the authors of association treaties drew on the same discourses as sources pertaining to imperial assemblies is significant. It indicates that alliances and leagues belonged to the highest and broadest—that is, the most 'public'—layer of political life in the Holy Roman Empire. Whether this status was universally recognized and agreed is less clear; occasional attempts by monarchs like Charles IV and Sigismund to abolish or restrict league-making activity suggest that at times it was not.¹¹ However, at the very least it can be said that those who wrote association treaties wanted them to be perceived as highly public and political enterprises. It is no accident that, in their quest to define a cumulative imperial *Staatsrecht* ('state law'), seventeenth- and eighteenth-century jurists like Johannes Philipp Datt, Johann Christian Lünig, and Johann Joachim Müller felt compelled to include the documentation of many leagues and alliances in their compilations.¹² Association treaties advertise themselves as pertaining to the public life of the Holy Roman Empire in a

¹¹ See e.g. Sigismund's letter to the Alsatian imperial cities demanding that they desist from entering into further alliances without his permission: *CDM*, i, 494–5.

¹² See *DPIP*; *RTT*; *TRA*.

manner matched only by sources stemming from the 'central' interactions of the monarchs, electors, and estates at the diets. Furthermore, while it is difficult to ascertain how widely the content of these treaties was disseminated, there is some evidence that large audiences might hear alliance and league treaties read out to them. Records from Constance mention that, soon after its urban government had sealed a new league treaty with several Swabian cities in 1376, 'the alliance was proclaimed and made public before the main municipal building, and the populace ["dem volk"] was informed of the way in which the towns had allied with one another'.¹³ At a tournament held in Nancy in Lorraine in 1445, newly sealed alliances between the Rhenish prince-electors and the king of France were proclaimed before the crowd.¹⁴

In the rest of this chapter, the key components of this shared imperial and associative discourse—peace, the common weal, and the Empire—will be considered in more detail. In order to understand precisely why they were selected, and what resonances they had, it is important to focus on each of these broad concepts, and the nexus of related terms and ideas which they evoked, in turn. Because of the way in which these concepts were clustered together, it is of course somewhat artificial to analyse their use separately. Nonetheless, each had specific emphases, so it is worth examining them one at a time, while remaining aware that they garnered their political connotations from their inclusion within formulae which connected them to one another.

PEACE

'Peace' (*Friede*) was one of the most commonly invoked notions in all varieties of associative contexts. A sizeable multilateral alliance, like the one entered into by the Austrian *Landvögte*, Freiburg, Basel, and Strasbourg in 1351, might be said to exist 'for the peace and wellbeing of their [the Austrian lordship's] people and lands . . . and also on behalf of the peace and wellbeing of us [the three cities], our people, citizens, and assets, and of the land/region collectively'.¹⁵ Equally, smaller and seemingly more amicable bilateral alliance treaties appealed to this idea, as in the case of the 1458 contract between Duke Sigmund of Austria-Tyrol and Count Ulrich V of Württemberg-Stuttgart. The document asserts that the alliance was not only created because of 'birth-given family ties, affection, and friendship', but also 'for the sake of peace, wellbeing, and comfort, and of

¹³ UAODSB, ii, 607.

¹⁴ Pécquignot, "L'ordonnance perdue", pp. 805–6.

¹⁵ UBF, i, 397–8.

[our] lands and peoples'.¹⁶ Even the shortest of preambles in the smallest of alliances, like that of the 1410 treaty of the counts of Fürstenberg and Sulz, referenced the idea of peace (in this case, 'for the sake of good peace and protection').¹⁷ As these three examples illustrate, 'peace' was often linked to other ideas (not least 'wellbeing'), functioning as the head of a list of discursively clustered virtues and goals. At other times it was closely related to the notion of divine sanction, giving the impression that a given association was a pious undertaking. In a 1391 renewal of the 'league of towns around the lake',¹⁸ it was asserted that, since King Wenceslas had approved past re-creations of the league, 'so we have by divine right extended the same league, unanimously and with good intentions, and for the sake of our and the land's/region's collective peace'.¹⁹ The authors of a 1455 treaty between Rottweil and Duke Albrecht VI of Austria declared that the alliance was 'for the promotion of our lands and peoples and also of the common good, in order—as far as this will be granted to us through divine mildness—to create peace, comfort, and reconciliation'.²⁰

A broad and multi-faceted concept like 'peace' obviously had numerous possible meanings, drawn from a large number of sources, and its many origins and connotations in the later medieval Empire cannot detain us here. Fortunately, the configurations within which it was deployed, as illustrated by the examples just cited, provide clues as to what the most powerful moral and political resonances of the term might have been to contemporaries. For instance, the writers of the latter two preambles clearly strove to relate the professed peace-making mission of their alliances to God and his approval, and to Christian virtues more generally. Christian ethics emphasize peace and mutual affection, even among enemies, and there is plentiful evidence that later medieval clerics tried to communicate this message to lay authorities. A 1370 courtly manuscript at Heidelberg contains several transcribed sermons by the renowned Franciscan preacher Berthold of Regensburg, including one which exhorts listeners that 'just as one should be at peace with God, so one should be at peace with oneself, and so one should also be at peace with one's neighbour as if he were one oneself'.²¹ Equally, as customary legal texts like the *Schwabenspiegel* emphasized, drawing on Romano-canonical thought and ultimately on Paul in Romans 13, temporal authority was justified as a God-given means of preserving peace on earth.²² By referencing divinely sanctioned peace, association members tacitly attributed to their leagues

¹⁶ TLA Sigm./13.519.¹⁷ GLA 9/212.¹⁸ See Chapter 5, p. 110.¹⁹ GLA 5/6917.²⁰ UBR, p. 536.²¹ Universitätsbibliothek Heidelberg, Cod. Pal. germ. 24, fol. 97r.²² See e.g. *MGHFI*, iv.1–2, 38–42.

and alliances the same notional legitimacy and purpose as those enjoyed by any lord with temporal political authority, including the princes and monarchs of the Empire.

The discourse of peace in association treaties also had a more overtly political connotation, as its linkage with concepts like the 'common good' and 'our lands and peoples' implies. There had long been a direct connection in Europe, and especially in the German-speaking lands, between the language of peace-keeping and law enforcement by the highest figures in the socio-political hierarchy. This connection can be traced back at least to the eleventh century, when the Peace and Truce of God was promulgated by prominent clerics and enforced, at least theoretically, by regional elites.²³ In the Empire, the monarchs were quick to (re-)assume the authority to enforce the peace, and by the thirteenth century the ordinances they issued in an attempt to do so were known in the vernacular as (*Land-*)*Frieden*, the most influential being the 1235 *Reichslandfriede* of Mainz.²⁴ The discourse of peace remained closely related to the highest and most all-encompassing legal initiatives in the period with which we are concerned. Empire-wide legislation issued by the kings and emperors in consultation with the estates continuously invoked the benefit and necessity of peace. The Golden Bull of 1356, for instance, asserted that the more that unity existed among the imperial electors, 'so much more will the benefits of abundant peace ["*pacis*"] and tranquillity ["*tranquillitatis*"] emanate happily to Christian people'.²⁵ The *Reichslandfriede* issued in 1486 by Emperor Frederick III, the newly crowned King Maximilian, and the estates at Frankfurt began with a paean to peace: 'As we esteem that there can be nothing in the world more praiseworthy or fruitful than peace and concord . . . and in order to restrain turmoil, war, and bickering in the Empire, we have . . . made a common, Christian peace, undertaken throughout the whole Empire of the German nation and to last for the next ten years'.²⁶ Clearly, when it was combined with notions like the wellbeing of 'our/the land' or 'Christian people', this particular formulation of 'peace'—(*Land-*)*Friede*—evoked the most prominent and legitimate forms and spheres of political activity in the Holy Roman Empire. By borrowing this formulation, members of associations claimed unmistakably to be participants in these forms and spheres.

This linkage of peace as a divinely sanctioned political status with the stated purpose of formal associations sheds light on the complex relationship between regional peace-keeping unions and other alliances and leagues.

²³ Buschmann, 'Landfriede'.

²⁴ See Arnold, *Knighthood*, p. 16; see also Chapter 5, p. 103.

²⁵ *MGHCA*, xi, 578. ²⁶ *RTAMR*, i, 384–5.

We saw in Chapter 5 that the word *Landfriede* could have multiple meanings. It could refer to imperial legislation like the ordinances just cited, but it was also used by contemporaries to denote certain multilateral regional associations, usually because the king or royal office-holders were somehow involved in them.²⁷ We also saw that these *Landfriede*-associations were functionally very similar to leagues and alliances in general. Significantly, the discourses used in the preambles to associations labelled *Landfrieden* were also very close to those used in other alliances, leagues, and knightly societies. For example, the treaty of a 1395 Alsatian *Landfriede* contains a preface declaring that it was created ‘for the sake of the common good of the land and all the people who travel, live, or reside in it, and so that the lives and possessions of all upstanding and righteous people may henceforth be safe on water and on land’.²⁸ These vocabularies, themes, and motifs differ little from those in the alliance and league treaties we have seen so far. Even the one seemingly *Landfriede*-specific feature—appeals to the safety of the inhabitants of a given region, regardless of their status—can also be found in the treaties of alliances and leagues which were not labelled *Landfrieden*, such as the examples from 1362 and 1468 quoted at the start of this chapter.²⁹ Many alliances, such as that entered into in 1425 by the Count Palatine, the bishop of Strasbourg, and the lords of Lichtenberg and Fleckenstein, explicitly offered protection to merchants and pilgrims in a manner identical to *Landfrieden*.³⁰

The discourses shared by *Landfrieden* and associations in general were also present in imperial legislation and the proceedings and correspondence that emerged from imperial diets. Not only was a politicized language of peace also deployed in these texts, but they drew on the same *topoi*. For instance, some formal associations emphasized rhetorically the increasing disorder and insecurity of the land or Empire. A 1405 *Landfriede*-association in the Wetterau justified its existence in relation to the ‘much robbery and discord’ the region had allegedly experienced.³¹ The treaty of the 1445 alliance between the count of Württemberg-Urach, the archbishop of Mainz, and several princes bemoaned the ‘manifold undue, foreign, and severe events/misdeeds which have now arisen all over our lands’ and other ‘extreme afflictions and damages’, in view of which ‘we have allied ourselves henceforth, to the praise of almighty God, the honour of the Holy Roman Empire, of which we are members [“gelidderer”], and for the peace and wellbeing of the land collectively and of our counts, lords, knights, and retainers, and those of ours who are answerable to us and

²⁷ See Chapter 5, pp. 102–4.

²⁸ *UBS*, vi, 575.

²⁹ See above, p. 143.

³⁰ *CDN*, no. 233.

³¹ *RTA*, v, 631.

whom we must defend'.³² This is the same theme that was stressed in imperial ordinances like the 1442 'Reformation of Frankfurt', which justified its peace-making initiatives by highlighting supposedly omnipresent disorder:

When we [Frederick III] now at the outset of our government, and also now after our royal coronation, authentically and from many sources have been instructed and have heard that in the Holy Roman Empire, and especially in German lands, many abuses, violent crimes, and also other unacceptable and dishonourable attacks and injuries have taken place, and continue to take place every day with stealing and murder and arson, because of which the Holy Empire, of which we have been named an augments, appears greatly diminished, and many of the Empire's subjects and loyal people, both spiritual and temporal, daily suffer great distress, corruption, and damage/loss, so that great complaints sadly arise throughout the lands, through which the common good is greatly led astray, wasted, and suppressed; so, because of the burden of our royal office, which we, God be praised, have taken upon ourselves for the honour of the Holy Empire and through the will of the common good, we have resolved that we wish to work with all diligence and to the best of our capabilities, with timely counsel and the help of God as well as the assistance of our and the Empire's loyal people, to obliterate such atrocious and evil occurrences.³³

Comparable passages can be found in imperial legislation from 1471, 1486, 1495, and subsequent 'reformist' peace-ordinances issued by the monarchs and the estates.³⁴

This sharing of discourses and tropes across imperial documentation and associations seems to indicate something more than just intellectual cross-fertilization. It suggests that, in any context, the politicized vocabularies and formulae of peace indicated a commitment by ruling authorities to preserving the security and wellbeing of the lands and peoples within the Empire—a commitment which was one of the main justifications for their power and status. It follows that the ideology of *Landfriede* did not 'authentically' reside either with the Empire's upper layer of institutions or with regional associations; it was something on which both drew. *Landfriede* itself was not so much an institution, whether monarchical, imperial, or associative, as a mission or statement of intent: to deploy the moralizing and politicized discourse of peace, whether in legislation or a league or alliance treaty, was to appeal to the very essence of what the Holy Roman Empire was supposed to be and do. The function of the Empire

³² Ibid., xvii, 684.

³³ Ibid., xvi, 402.

³⁴ Ibid., xxii, 870–1; *RTAMR*, i, 384–5; *ibid.*, v, 362–3; on the post-1486 ordinances, see Chapter 12.

was to enforce the *Landfriede*, and those who claimed to fulfil this mission *were*, in a sense, the Empire (or, as they put it, 'its members'). Consultation and legislation at diets and the making of associations in the localities were two interrelated ways of achieving the same ostensible goal within the Empire's overarching framework. This is clear from the response of a group of Franconian elites to a request from the electors then assembled at Boppard in 1423 that they sign up to a new 'lantfrid' in the form of a series of peace-keeping measures for Upper Germany. Their letter to the assembled estates at Frankfurt stated: 'You should be fully aware that we have already entered into an alliance in an attempt to seek the peace, honour, wellbeing, and profit of the land'—for which reason a new *Landfriede*-ordinance was, in the view of the members of this Franconian association, redundant.³⁵ Since the Rhenish League of 1254 invoked the 1235 *Reichslandfriede* of Mainz, the carrying out of the imperial peace-keeping mission was itself an associative process, and, to contemporaries, leagues, alliances, and legislative initiatives were all equivalent means to this same end. Even as the number of *Landfriede*-alliances initiated or sanctioned by the monarchs or electors tailed off after the 1420s, the principle that peace-enforcement was an imperial duty manifested simultaneously in legislation and formal associations endured, to resurface powerfully in the Swabian League of 1487–1534.³⁶

COMMON WEAL

It will be clear by now that association treaties also placed a strong emphasis on the notion of the 'common good', 'common weal', 'utility', 'wellbeing', or 'benefit' (*gemeiner Nutz*, or simply *Nutz*). Much of its significance can be explained in the same way as that of the term 'peace'. Indeed, the two words often accompanied one another in the same phrase, as we have seen in some of the treaties cited so far. A very common formulation in leagues and *Landfrieden* from the 1380s, for instance, claimed that these associations were created 'to the honour of the Holy Roman Empire and for the sake of the wellbeing, peace, and profit of all our lands and subjects'.³⁷ In 1407 the writers of the first treaty of the knightly Society of St George's Shield declared that this association had been formed 'collectively and unanimously for the sake of the common good and profit of lords, all knighthood, and the land collectively'.³⁸ This term was often invoked in bilateral alliances too. The treaty of the

³⁵ *RTA*, viii, 304.

³⁶ See Chapter 5, pp. 116–18, and below, pp. 155–6.

³⁷ *UAODSB*, iii, 72; see *ibid.*, iii, 45, 96, 234.

³⁸ *UBASG*, iv, 823–4.

1457 alliance of the margrave of Baden with the city of Strasbourg used the wording 'to the praise of God and for the common good and peace of us and our people'.³⁹ Once again, such formulaic appeals to the 'common good' in combination with peace, and sometimes with honour, can also be found in many fourteenth- and fifteenth-century invitations, consultations, and ordinances stemming from and concerning the imperial assemblies and diets.⁴⁰ 'Peace' and the 'common weal' were part of the same discursive package, which signalled that the users of these terms were involved in the highest and most divinely sanctioned spheres of political activity in the Holy Roman Empire. In this respect, the 'common good' was simply the profitable and harmonious state that the region, population, or realm would enter into as a result of the successful enforcement of the peace by the political elite.

In this sense of the term, the 'common weal' was often bound up with the idea of 'necessity' (*Notdurft*)—a link which was in evidence both in association treaties and in official imperial documentation. In the latter context, necessity and the common good were usually cited together in order to reinforce the need for action in the face of a crisis. In the last decades of the fourteenth century the formula 'common weal and necessity' was used repeatedly in royal and electoral correspondence about the establishment of regional *Landfrieden* to combat symptoms of what was depicted as generalized disorder: robbery, destruction, and division.⁴¹ This language gained a new intensity and specificity in the 1420s in connection with the Hussite Wars. During this decade both King Sigismund and the electors appealed to the necessity and the common good of the Holy Roman Empire and Christendom in their invitations and ordinances in order to persuade the elites of German-speaking Europe to attend frequent *Tage* and provide troops and funds for anti-Hussite campaigns.⁴² Frederick III, Maximilian, and the estates drew on the same discourses of imperial and Christian 'notturft' and 'gemein nucze' in the 1450s, '70s, and '80s in consultations and legislation formulated against the backdrop of Turkish incursions into Hungary and Austria.⁴³ More generally, the second half of the fifteenth century saw a crescendo of debate among German-speaking elites about legislative initiatives and reforms which would, in the words of a 1455 consultation, 'bring notable honour and benefit' if geared towards 'the necessity of the Holy Empire and of the German lands collectively'.⁴⁴ Appeals in association treaties to

³⁹ GLA 46/770.

⁴⁰ E.g. *RTA*, ii, 158; *ibid.*, xii, 121, 124; *ibid.*, xiii, 157.

⁴¹ E.g. *ibid.*, i, 351 (footnote).

⁴² E.g. *ibid.*, viii, 6–9, 28–38, 125–6; *ibid.*, ix, 65–75.

⁴³ *Ibid.*, xix.3, 158–9, 319; *ibid.*, xxii, 870–1; *RTT*, i, 512–14.

⁴⁴ *Ibid.*, i, 513.

'the common weal and notable collective necessity' (as formulated in the 1379 renewal of the league of Alsatian imperial cities)⁴⁵ or to 'the honour of our gracious lord the Roman Emperor and, as members of the Holy Empire... the sake of the common good and necessity' (the words of a 1473 alliance of the bishop and city of Strasbourg)⁴⁶ staked a place for leagues and alliances within this same Empire-wide sphere of political discussion and activity. What might at first sight appear to be bland formulae selected from an array of late medieval commonplaces took on a specific politicized meaning in the context of the discourses that framed the interactions of the governing elites in the Holy Roman Empire. Just as associations were portrayed as contributors to the Empire's peace-keeping mission, so they were widely depicted as mechanisms for meeting its urgent defensive needs, thereby ensuring the common good of its inhabitants.

The concept of the *gemeiner Nutz* had a further, specifically governmental, connotation which may have had a bearing on how the role of formal associations was understood. The 'common good' or 'weal' was not only one among several key terms within the conceptual clusters that pervaded discourse at the level of Empire-wide interaction. It was also part of a late medieval lexicon which denoted an increasingly well-defined sphere of government—that set of 'public' institutions and functions which are often bound together, somewhat anachronistically, in the word 'state'. By the mid-sixteenth century the term *gemeiner Nutz* was the standard vernacular translation of the Latin *res publica*.⁴⁷ Already in the early fifteenth century, *res publica* was used where a German document would have appealed to the *gemeiner Nutz*. In a 1427 proclamation of a new anti-Hussite campaign, the imperial electors asserted that the endeavour was not only for the praise and exaltation of God and the Church, but also 'ad... reipublice commodum et salutem'.⁴⁸ Elsewhere it was translated as *utilitas publica*, as in the Latin version of the 1471 *Landfriede* of Regensburg, in which this concept stood in for 'gemein nucze' in the German original.⁴⁹ It seems that *gemeiner Nutz* was the German variant of that pan-European vocabulary identified by John Watts as a reflection of 'the growth of government and the expansion of discourse about government' in the course of the thirteenth, fourteenth, and fifteenth centuries.⁵⁰ It was the direct equivalent of the Franco-Burgundian notions of the *commun bien* and the *chose publique*, for instance.⁵¹ In this sense of

⁴⁵ CDM, i, 306–7.

⁴⁶ TLA Sigm./14.1114.

⁴⁷ For example, the German translation of Andrzej Frycz Modrzewski's *De republica emendanda*... (Basel, 1554), by Wolfgangus Wissenburg, was entitled *Von Verbesserung des Gemeinen Nutz* (Basel, 1557).

⁴⁸ RTA, ix, 33.

⁴⁹ Ibid., xxii, 871, 875.

⁵⁰ Watts, *Politics*, p. 386.

⁵¹ See Vanderjagt, *Concepts*, p. 55.

the term, *gemeiner Nutz* evoked the increasingly consolidated governments that were emerging within the many different layers of the Holy Roman Empire. This includes those polities or sub-polities that German historians have devoted most of their energy to studying: the 'territories' of princes, cities, and other powers, which we have argued might be better understood as overlapping agglomerations of items of lordship;⁵² and the Empire itself, centred on the meetings of the monarchs, the electors, and the other elites, which underwent what Moraw described as 'configured consolidation' (*gestaltete Verdichtung*) in the fifteenth century.⁵³ By claiming to work for the common weal, members of associations deliberately positioned themselves within the developing governmental functions and structures of German-speaking Europe. Furthermore, while by the seventeenth century the common good was a ubiquitous commonplace, deployed at every level (including that of peasant life),⁵⁴ in the fourteenth and fifteenth centuries it seems mostly to have been reserved for the supreme layer of government: the overarching framework of the Holy Roman Empire. The invocation of the most public, 'state'-like concept available in contemporary German in the prefaces of association treaties was a clear statement that alliances and leagues were supposed to be understood as integral parts of that framework.

EMPIRE

The third important component of the political discourse found in association treaties is the idea of the Holy Roman Empire. We have already seen many quotations from a variety of fourteenth- and fifteenth-century treaties in which the Empire and its honour and wellbeing were invoked. It is true that some of these treaties involved free or imperial cities in some capacity, and the particular attachment of the municipal elites in these communes to their status as imperially immediate subjects may go some way to explaining the prevalence of pro-imperial language in the association treaties they were involved in writing.⁵⁵ Nonetheless, this language was by no means unique to predominantly urban associations. Even the Swiss Confederates sometimes valorized the Empire in their alliances. When in 1454 the eight core Confederates signed a joint treaty with Schaffhausen, it was declared in the document's preamble that the alliance was 'to the praise and honour of the Holy Empire and for the sake of the wellbeing, profit, protection, and peace of the lives and goods of we the

⁵² See Chapter 4, p. 77.

⁵³ Moraw, *Verfassung*.

⁵⁴ See Forster, *Villages*.

⁵⁵ See Brady, *Turning Swiss*, chs 1–2; Isenmann, *Stadt im Mittelalter*, pp. 304–5.

afore-named towns and lands, and also the land collectively'.⁵⁶ Similarly, it was entirely possible for small, non-urban alliances to use this language. The 1477 alliance of Margrave Christoph of Baden and Count Eberhard V of Württemberg-Urach was avowedly created 'to the praise of almighty God, to the honour of the Holy Roman Empire, of which we are members, and also for the sake of the peace, comfort, and common good of us, our lands, peoples, and subjects, and all those associated with us, spiritual and temporal'.⁵⁷ It seems that the discourse of Empire even featured in the negotiations that led to the formation of alliances. In 1461 the government of Constance and its allies around Lake Constance wrote to Count Ulrich V of Württemberg-Stuttgart, to whom they were allied. Merely considering whether to extend this 'aynung und verpundnisse' was apparently sufficient cause to assert that the pious wish of Constance and its allies was 'happily to promote all honourableness, for the wellbeing of the Holy Empire'.⁵⁸

Such references to the Empire gave further specificity to the appeals to peace and the common weal which pervaded association treaties. We have seen that the way in which the writers of these treaties deployed these terms closely matched the discourses in use in monarchical and Empire-wide political activity. The fact that these same writers also referred directly to the Empire confirms beyond doubt that leagues and alliances were understood as components of its functions and structures. Those treaties which did not explicitly mention the Empire, but specified instead only their own and the land's peace and wellbeing, were otherwise borrowing from the same lexical palette, which suggests that even in those instances the writers would have been conscious of the imperial resonances of their wording choices. Members of associations were not merely aping discourses used by those in a more elevated sphere in an attempt to legitimize themselves. By invoking the Empire, local and regional alliances and leagues brought it into being imaginatively and discursively. By purporting to fulfil its divinely ordained peace-keeping and common weal-upholding mission to its praise and honour (i.e. on its behalf), however temporarily and imperfectly this worked in practice, they made its presence felt throughout Upper Germany in the long gaps between imperial assemblies and visits by peripatetic monarchs.

Furthermore, the 'central' layer of imperial activity—the interactions of electors with other powers, the maintenance of monarchical networks of correspondence, the calling of *gemeine Tage* and *Reichstage*, and the implementation of ordinances agreed at those diets—was closely interlinked

⁵⁶ AEA, ii, 875–6.⁵⁷ GLA 36/2377–8.⁵⁸ GLA 123/239.

with, and reliant upon, associative activity. From at least the late fourteenth century onwards, the monarchs and electors were able to use associative networks, particularly those of towns, to spread word of imperial initiatives and diets.⁵⁹ The reigns of Charles IV, Wenceslas, and Rupert saw continual reliance on associations, particularly ones consisting of free and imperial cities, princes, and the upper nobility, for the implementation of imperial peace-keeping ordinances on the Middle and Upper Rhine and in Swabia, Franconia, Bavaria, and Saxony.⁶⁰ As we have seen, even those associations which were not appointed by monarchs, electors, or diets still claimed to be carrying out what were effectively imperial duties. The 1420s and '30s saw further experimentation with associative means of governing the Empire, in the form of multiple electoral unions on the one hand and leagues of towns and lesser nobles promoted by Sigismund on the other, with plenty of interaction between these coalitions.⁶¹ Association remained a favoured method of political action in the mid-fifteenth century, as formations like the princely 'League of Mergentheim' of 1445 show.⁶²

Even after 1470, the moment at which, in Peter Moraw's interpretation, associations definitively lost their role in imperial affairs in favour of a consolidating *Reichsverfassung*,⁶³ leagues and alliances remained key points of contact between the developing monarch-and-estates sphere of imperial politics and political society at large. The foundation of the Swabian League in 1487 was a product of the joint energies of networks of powers in Swabia itself and the legislative initiatives which Frederick III and Maximilian had undertaken under the guidance and pressure of the estates, and especially the reform-minded Archbishop-Elector Berthold of Mainz.⁶⁴ In that year Frederick called five successive *Tage* in key Swabian cities—Esslingen, Ulm, and Reutlingen—in order to negotiate the implementation of the Frankfurt legislation of 1486, and the rapid creation of the League is testimony to the receptiveness of regional elites to an associative solution to the problems of the emperor and the Empire.⁶⁵ It was in this context that the idea that the Empire was a particular instrument of government for the German 'nation' really took hold in political discourse. While the 'German lands' (or even the *natio Germanica* in ecclesiastical Latin) had often been invoked before, it was only at the end of the fifteenth century that documents pertaining to the political life

⁵⁹ See, among hundreds of examples, *RTA*, ii, 86–7; *ibid.*, viii, 122–30.

⁶⁰ Angermeier, *Königtum und Landfriede*, pp. 174–339.

⁶¹ See Chapter 10, pp. 212–14. See also Wefers, *System*.

⁶² See Chapter 5, pp. 101–2.

⁶³ Moraw, 'Funktion', pp. 9–10, 19–20.

⁶⁴ On the League's origins see Carl, *Schwäbischer Bund*, ch. 2.

⁶⁵ *RTAMR*, ii, 753–840.

of the Empire began to link it to the 'German nation'. The designation 'Holy Roman Empire of the German nation' was not yet in use in the imperial ordinances of 1471, but the 'Lower Union' of 1474 and the anti-Burgundian coalition that grew out of it appealed to this Germanized formulation of the imperial polity.⁶⁶ Thereafter it remained a commonplace of discourse pertaining to the Empire's institutions—legislation and consultation at the diets, and also associations like the Swabian League and the renewal of the 'Lower Union' in 1493.⁶⁷ When Maximilian approved the extension of the Swabian League in 1500 as a vehicle for upholding the 1495 *Landfriede* of Worms 'everywhere in the German nation', with the League now boasting several electors and princes as members, associations were a more integral component of the Empire than ever.⁶⁸ As Chapter 12 will explore in more detail, associations and associative practices formed the basis of many of the so-called 'reforms' and new institutions implemented by the imperial estates in the early sixteenth century. The formal association was also the format of choice for the confessional coalitions of the 1520s to '50s. The Empire was indeed becoming more consolidated from the 1470s onwards, but associations, far from being marginal, played an important role in this process, having long been a part of the Empire's multi-layered structure in both functional and conceptual terms.

CONCLUSION: THE HOLY ROMAN EMPIRE AS AN 'ASSOCIATIVE' POLITY?

It is clear from the ubiquity of certain concepts in association treaties, and the multiple politicized resonances that these concepts had, that alliances and leagues cannot be fully understood if they are not studied within the context of the political culture of the Holy Roman Empire as a whole. The discourses used in the documentation of leagues and alliances highlight their centrality to this imperial political culture. Between the mid-fourteenth and early sixteenth centuries, formal associations in the localities and imperial government were conceptually entangled, to the extent that the Empire's political culture might be described as 'associative' in this period.

Of course, we must be cautious in making judgements about the Empire's richly textured political culture on the basis of the discourses used in association treaties, notwithstanding their striking similarities with sources stemming from pan-imperial interactions. It could be argued that

⁶⁶ *CDM*, iv, 170–1; see Chapter 11, pp. 226–7.

⁶⁷ E.g. *RTAMR*, i, 376, 385; *ibid.*, iii, 180; AMS AA54.

⁶⁸ *DPIP*, p. 350.

all this was merely an ideological veneer imposed on a more mundane reality, in which alliances and leagues served primarily to channel and regulate local and regional relationships; or a cynical borrowing of prevailing political vocabularies to justify agendas which were not universally approved by leading participants in imperial government. There were undoubtedly tensions inherent in a political order which could simultaneously be conceived in apparently oppositional conceptual frameworks, ranging from top-down Justinianic ideas about monarchical supremacy, best represented by Frederick III's abortive attempt to make peace-breaking a *crimen laesae maiestatis* in 1467, to the bottom-up valorization of the common good of the Empire by its self-proclaimed and horizontally associated 'members'.⁶⁹ However, it is surely highly significant that the most oft-repeated political formulae in sources that survive from the Holy Roman Empire appear in only two contexts: association treaties and the sources pertaining to imperial assemblies and royal administration. That it was possible to claim to be acting on behalf of the Holy Roman Empire in exactly the same terms in both of these contexts suggests, at the very least, that there was no inevitable contradiction between social hierarchies and monarchical ideologies, on the one hand, and the pursuit of day-to-day collective politics within horizontal contractual frameworks on the other. In the Upper German space, associations instantiated the participation of their members in the mission of the Empire itself—a mission that manifested itself most plausibly and consistently through associative activity. Even the most exalted figures in the Empire—the electors and the kings and emperors of the Romans themselves—were willing to participate in leagues and alliances.⁷⁰ Though the imperial monarchs sometimes opposed specific associations which threatened their interests, there seems to have been widespread (if sometimes grudging) acceptance at even the highest levels of political activity that autonomous elites in the Empire could enter into alliances and leagues, and that this might be necessary or beneficial. Partly this reflects the configurations of power in the Empire that have been highlighted so far in this book—the interconnectedness and interdependence of its constituent members, and the pragmatic need for a framework to manage their conventional modes of interaction. However, this widespread acceptance of associations also draws attention to the legitimacy and indispensability they came to enjoy, and which they themselves advertised by appealing to concepts specific to the uppermost layer of political activity in the Holy Roman Empire: peace, the common good,

⁶⁹ Most, 'Reichslandfriede'.

⁷⁰ See the example of Maximilian in the Lower Union in Chapter 6, p. 136.

and the Empire itself. On the one hand, this widespread rhetoric validated even the smallest, most temporary, and most localized associations, although these may not have had particularly important practical effects. On the other hand, it facilitated the coherence of the imperial system, even in morcellated and seemingly disorderly regions like the Upper Rhine and Swabia, by providing a link—via associations—between the customary world of feuding, arbitration, and financial and tenurial networks and the lofty aspirations of Christian government under the Roman emperor and the political community which was supposed to counsel and assist him.

Indeed, the role of associations as bearers of discourses otherwise reserved for imperial legislation and assemblies suggests that these two spheres were not as far apart as existing historiography implies. The developing institutions of the fourteenth- and fifteenth-century Empire emerged from the customary dynamics of power in Upper Germany. The *gemeine Tage* and *Reichstage* could be viewed as Empire-wide versions of the negotiatory *Tage* so prevalent in everyday political life in the localities, especially in connection with associations. The growing conception of the Empire as a body of horizontally related ‘members’ instead of as the old *Heerschildordnung* hierarchy,⁷¹ depicted visually as the so-called *Quaternion* from the late fifteenth century, mirrors the situation in the land-communities of the localities, and especially that in formal associations. From this perspective, it may not be an exaggeration to suggest that the Holy Roman Empire itself was understood as a kind of association, or at least a series of overlapping associations—not in the Gierkian sense of a harmonious Germanic *Genossenschaft* endowed with legal personality or statehood, but in the customary sense that contemporaries tried to articulate when they evoked the peace and common good of themselves, the land, its people, and the Empire as a whole, ‘of which we are members’.⁷² In Chapter 12, we shall see that the conceptual and structural connections between associations and imperial government continued to shape the Empire’s development in the decades around 1500. Furthermore, as the final chapter of Part II, Chapter 8, will now explore, associative ties existed in many circumstances beyond the leagues, alliances, and societies discussed so far.

⁷¹ See Introduction, p. 13.

⁷² GLA 36/2377–8.

8

Beyond Alliances and Leagues

The Associative Character of Political Life in the Empire

Throughout Part II we have seen that alliances, leagues, and similar formal associations were prominent features of the political landscape, which emerged naturally as regulatory mechanisms for the underlying structures and dynamics noted in Part I. Far from being marginal formations in a world of nascent territorial states, or horizontal peculiarities in a predominantly vertical ‘imperial constitution’, associations were functionally and ideologically central to many of the activities of the governing elites in the Holy Roman Empire—arbitration, feuding, and intertwined structures of lordship and finance. Because they accomplished all this in a manner which accorded with contemporary values and behaviours, associations were woven into the wider fabric of social and political life. Formal associations constituted a practical and flexible format; because they were of short duration and could easily be extended or expanded, they could respond nimbly to evolving disputes and shifting configurations of lordship. As a collective and ongoing activity, associations also formed a durable focal point in politics—a shared layer of interaction and discussion which drew on the discourses and ideologies developed at the imperial assemblies and in the dialogue between the kings and emperors of the Romans and the rest of the governing elite in the German lands. All in all, alliances, leagues, and other comparable formations were geared to the needs of the later medieval societies that produced them, which is ultimately not very surprising, since these associations were clearly a product of the political structures and activities which prevailed within those societies.

Leagues and alliances were not the only associative ways of doing things in the political life of the southern Empire, however. While the treaty-based formations examined so far were central to associative political culture, many other structures and activities in the fourteenth to sixteenth centuries also exhibited what might be considered associative dynamics. The term ‘associative’ can be understood to describe any

formalized interactions between power-wielders who were not arranged in a clear hierarchy, as well as the constant redefinition of the contractual relationships between these power-wielders. Such associative dynamics and configurations can be identified at almost every level of government, from local authorities within fragmented castle districts to the estates of a 'land' or princely agglomeration. On the Upper Rhine and in Swabia, trans-regional challenges of a financial or jurisdictional nature were approached via associative means, as were the tasks of governing sprawling and morcellated lordships. In other words, most political processes in the Holy Roman Empire involved lateral ties and interactions between multiple powers.

This associative dimension has not been articulated as such because of the dominant narratives and interpretive frameworks in late medieval and early modern German historiography. As we have seen repeatedly, the evidence from this period is usually read as tending towards the creation of territorial states or *Landesherrschaften*, or it has been subsumed within a disjunctive *Reichsverfassung*, or else it is categorized according to preconceived and essentialized socio-political groups or legal entities.¹ While it is not possible here to consider all of the many facets of associative activity in Upper Germany, this chapter will conclude the case for an associative model of politics in the Empire by highlighting prominent areas in which horizontal associations were employed, beyond the alliances and leagues that have already been discussed. Three manifestations of associative dynamics will be considered: specialized associations which addressed problems beyond the remit of individual powers; joint forms of lordship, especially within dynasties; and institutions and collectivities which encompassed multiple actors within a single political entity. It will then be possible to reflect on the full implications and reach of 'associative political culture' as an interpretive framework.

SPECIALIZED ASSOCIATIONS AS SOLUTIONS TO POLITICAL FRAGMENTATION

Divided as it was among a multitude of autonomous actors who were connected to one another in shifting networks, the southern Holy Roman Empire was a challenging environment for mobilizing collective action. The associations examined so far provided multilateral frameworks in the spheres of conflict and litigation. There was no such widely recognized

¹ See Introduction, pp. 6–9 Chapter 4, pp. 70–1 Chapter 5, pp. 94–5.

and replicated format for dealing with other issues, like financial instability or the administration of fragmented localities. However, treaty-based agreements between multiple parties were sometimes improvised to deal with these issues, and the resulting associations were not dissimilar from the more common alliances, leagues, *Landfrieden*, and knightly societies.

This problem-oriented resort to treaty-based associations is clearly exemplified by the coinage leagues—or ‘coin/mint-unions’ (*Münzvereine*)—of the fourteenth to sixteenth centuries.² In this period, associations of autonomous powers in different parts of German-speaking Europe created or renewed treaties which committed their signatories to controlling the quality of the coinage minted in the areas under their jurisdiction and to punishing those who disobeyed these rules about coinage quality within the specified zones. This was necessary because of the dispersal of the regalian right to mint among a multitude of powers in the Empire, which placed the establishment of stable currency values and exchange rates beyond the remit of any single authority—although Frederick III did attempt, unsuccessfully, to legislate the gold content of florins (*Gulden*) minted in the Empire in his 1442 ‘Reformation’.³ For instance, in 1377 a fifteen-year treaty regulating minting was drawn up by Duke Leopold III of Austria, Count Rudolf of Habsburg, Count Hartman of Kyburg, Countess Elsbeth of Neuchâtel, Lord Hannemann of Krenkingen, and the free and imperial cities of Basel, Zurich, Bern, and Solothurn, ‘since many great afflictions have occurred in these lands lately because of the coinage’.⁴ The valuation of the coins (*Schillinge*, *Gulden*, and others) struck in the mints of each of these powers was specified very precisely by the treaty, as was the precious metal content. The masters of the mint in each of the participating authorities were to obey these specifications, on pain of mutilation, which all of the signatories agreed to carry out if necessary.⁵ A century later, in 1478, a comparable treaty was signed by the Alsatian *Landvogt* of Austria and the cities of Basel, Colmar, Freiburg, and Breisach.⁶ It also imposed agreed coinage values within the jurisdictions of these powers, and banned the circulation of foreign currencies, with a few named exceptions. The participants also agreed to fixed exchange rates. Future modifications could be discussed at *Tage* by representatives of the signatories. The treaty also called for the punishment of masters of the mint who ignored its stipulations. This was not an empty threat: the government of Basel had recently

² On coinage leagues, see Cahn, *Rappenmünzbund*; Scott, *Economic Change*, ch. 6; Körner and Zäch, ‘Münzvereine’.

³ *RTA*, xvi, 406. See Schüttenhelm, *Geldumlauf*.

⁴ *UBB*, iv, 400.

⁵ *Ibid.*, iv, 401.

⁶ *Ibid.*, viii, 439–41.

imprisoned its 'münzmeister', Ludwig Gesell, for flouting the coinage regulations within the 'zones of the coin/mint-association'.⁷ That the term 'mint-association' ('munzgnosschafft') had developed reflects the sense of collective solidarity that durable coinage leagues could foster. The 1478 treaty was one of several signed by this group, dubbed the *Rappenmünzbund* ('coin/mint league of the *Rappen*'—an Upper Rhenish coin), which, with some breaks and fluctuations in its composition, operated from 1399 until 1584.⁸ The coinage league of Riedlingen (1423–c. 1500), driven by the partnership of Constance and Ulm, lasted for many decades.⁹ The unions were not always successful in maintaining set monetary values or in excluding unwanted foreign currencies,¹⁰ but an associative approach which regulated minting activity across multiple fragmented and overlapping authorities was the best tool available for trying to control a large-scale phenomenon like coinage.

Multilateral judicial treaties were another type of association which addressed challenges that transcended the governmental competences of any single political actor or entity. If multiple powers wanted to support or oppose a judicial outcome, or to abolish an external source of judicial redress which threatened them collectively, treaty-based associations were an obvious means of achieving a common policy. An example of associative support for a quasi-judicial process is the 1373 'eternal' league formed by the Austrian *Landvogt* Rudolf von Walse, Strasbourg, Basel, the imperial cities in Alsace, and the towns in the Breisgau to uphold the judgments and sentences made against the lesser noblemen Hans Erbe and Hans zum Wiger and their followers.¹¹ These had been the feud-enemies of Strasbourg and several other Alsatian powers in 1372, and the signatories of the 1373 treaty had formed a coalition to defeat them. The allies besieged Erbe's hideout, the castle of Herlisheim, and—apparently as a collective ad hoc court—tried and then executed him and fifty-three followers.¹² The 1373 treaty was an associative method of legitimizing this quasi-judicial decision made by a network of political elites. An association with a more ambitious goal was the 1461 treaty against the *Feme*, or Vehmic courts.¹³ These were run by a Westphalian group of self-proclaimed judges and jurors, and by the mid-fifteenth century they had a substantial presence throughout Upper Germany. In exchange for a fee, the Vehmic courts would offer to resolve disputes, regardless of whether they had already been pursued before other courts or arbitrators. If the

⁷ Ibid., viii, 379.

⁸ Körner and Zäch, 'Münzvereine'.

⁹ Ibid.

¹⁰ On the fortunes of the *Rappenmünzbund*, see Scott, *Economic Change*, ch. 6.

¹¹ *UBB*, iv, 338.

¹² *COS*, ii, 803.

¹³ *RUB*, iv, 271–6.

accusations made by the established authorities against the *Feme* are to be believed, their staff resorted to intimidation in order to force their clients' opponents to appear before them or accept their judgements.¹⁴ In any case, the *Feme* constituted a parallel judicial system, which encroached upon the jurisdictions of other princely, urban, and noble powers. It is not surprising, therefore, that these powers formed an association to oppose this trans-regional threat to their authority. The 1461 project involved actors from across the length and breadth of the Upper Rhine: the Count Palatine, the archduke of Austria, the margrave of Baden, the bishop of Strasbourg, the abbot of Murbach, the counts of Lupfen and Lichtenberg, the lords of Bussnang and Rappoltstein, and the towns—free, imperial, and subject—in Alsace and the Black Forest. Their professed aim was to end the alleged injustices which the use of 'Westuelschen gerihten' had caused by banning their subjects from having recourse to them. The measures of the 1442 'Reformation', which had sought to circumscribe the jurisdiction of the *Feme* on pain of heavy fines and bans from holding office, were integrated into the agreement.¹⁵ It is telling that the Upper Rhenish powers ultimately took it upon themselves to implement a multilateral solution to the *Feme*, even after two decades of top-down attempts to legislate against them on the part of Frederick III.¹⁶ Only a course of action which bound several authorities together in a horizontal union could hope to combat a phenomenon that was present throughout the fragmented lands of the southern Empire.

More local administrative concerns in the fourteenth- to sixteenth-century Empire could be managed through treaty-based relationships called *Burgfrieden* ('castle-peaces').¹⁷ As we saw in Chapter 4, property and jurisdiction were even fragmented at the level of small settlements.¹⁸ It was therefore helpful for the different powers who exercised some form of authority within a given town, village, or castle to form associations of sorts with one another, whereby their commitments to co-existence and a clear delineation of their respective rights and responsibilities were enshrined in treaties. For example, in 1399 Lords Smassmann and Ulrich of Rappoltstein entered into a kind of administrative association, called a 'burgffriden', with the knight Friedrich von Hattstatt, which applied to the fortress of Eckerich/Échéry and its jurisdictions ('gerichte und ban') in Upper Alsace.¹⁹ The lords of Rappoltstein and Hattstatt each owned parts

¹⁴ See Trugenberg, 'Feme', pp. 238–63. ¹⁵ *RTA*, xvi, 405.

¹⁶ In addition to the 1442 'Reformation', see individual mandates against the *Feme* such as *CDM*, ii, 338–41.

¹⁷ A valuable comparative study is offered by Rödel, 'Burg als Gemeinschaft'.

¹⁸ See Chapter 4, pp. 84–7. ¹⁹ *RUB*, ii, 486–91.

of Eckerich, and their *Burgfriede* stipulated joint obligations within its carefully defined limits. These included collective maintenance of bridges, cisterns, and gates; exercising a shared criminal jurisdiction over the fortress and its lands; and storing the proceeds of incomes and fines in a 'common building' ('gemeinen bu'). Both parties agreed to notify one another if they planned to accommodate people within the 'creisse' ('circles') of the *Burgfriede*, and not to harbour each other's feud-enemies. Their officers and followers had to swear oaths to respect the terms of the treaty. Some *Burgfriede*-treaties also specified exactly which components of a given settlement were under the lordship of which authority, and how the neighbouring lords should navigate one another's property and rights while fulfilling common duties within the framework of the peace-association.²⁰ Others, like a 1416 treaty between the Counts Palatine Stephan and Otto and Margrave Bernhard of Baden for the castle of Schadeck, entailed joint military responsibilities, such as the obligation to create a shared cache of armaments in the castle.²¹ If one of the lords in a settlement sold or pledged his/her assets and jurisdictions, the associative ties created by *Burgfrieden* could be transferred to the new owner. Thus, when Count Heinrich of Fürstenberg promised the incomes of the castle of Wolfach to the town of the same name in 1485, the pre-existing *Burgfriede* linked to Wolfach was included in the package of rights and revenues to be transferred.²² The involvement of some princely or quasi-princely actors in *Burgfriede*-treaties is a reminder that the owners and exercisers of property and jurisdiction in a given zone were rarely equal in power. Many *Burgfrieden* were highly asymmetrical, and their establishment can be interpreted as a means of bolstering the position of a more powerful actor vis-à-vis a weaker one by granting the former the ability to interfere directly in the assets of the latter. Nonetheless, these treaty-based relationships are best understood as associative formations—however imbalanced—because they clearly do not fit within a paradigm of outright, vertical domination. Instead, they obliged two or more authorities with intermingled rights and properties in a single place to pool their resources and responsibilities as horizontal associates, with the aim of creating a workable *modus vivendi* in contexts which could (and frequently did) provoke frictions on a regular basis. Indeed, the exercise of lordship in the later medieval Empire can frequently be explained in terms of this associative dynamic, as the next section of this chapter will now examine.

²⁰ E.g. GLA 46/257, 303.²¹ GLA 46/305.²² *FUB*, iv, 495.

JOINT LORDSHIP AS AN ASSOCIATIVE PROCESS

Lordship in the Holy Roman Empire has generally been conceptualized in unitary terms, i.e. as a process which was overseen by individual lords, governments, or administrations, especially within the paradigm of the developing 'territory'.²³ However, at most levels within a given authority, the practical exercise of government relied on multiple political actors, whose relationships to one another operated along lateral axes. This horizontal dimension has often been overlooked by historians of the German lands for the reasons outlined so far, as well as preconceived notions about 'feudal hierarchy', 'territorialization', or the 'rise of the modern state' which still pervade much medieval and early modern historiography. If the evidence is considered outside of these interpretive frameworks, it makes sense to read many configurations of lordship as collective or associative. Indeed, this is a perspective that has recently been adopted for earlier periods of European history, in work such as Hélène Debax's study of 'les coseigneurs' in the eleventh to thirteenth centuries and Jonathan Lyon's analysis of the importance of sibling ties in twelfth- and thirteenth-century German princely activities.²⁴ A key finding of this research on high medieval Europe is that many processes of lordship were undertaken jointly by multiple social and political peers, and especially by networks (or, as we might also call them, associations) of family members of the same generation. This applies equally to the fourteenth to sixteenth centuries.

It was not uncommon for even the smallest building-blocks of political authority in the later medieval Empire—local properties, incomes, and jurisdictions held as fiefs, *Pfandschaften*, or offices—to be enjoyed and exercised collectively by two or more actors. We saw many examples of this pattern in Chapter 4. In each generation of the Bock dynasty of Strasbourg, for instance, members of that patrician and noble family can be found holding properties, incomes, or jurisdictions jointly with their siblings or with other local elites.²⁵ Such joint lordship entailed the formation of a tacit association between the two or more lords involved in the tenure of a given item. This is particularly clear in the case of fiefs, because the later medieval sources explicitly refer to co-tenants of *Lehen* as 'fief-associates'—'lehensgenossen'.²⁶ As late as 1511, many fiefs granted by the lordship of Austria were held by multiple tenants—as in the case of

²³ See Introduction, pp. 6–7; Chapter 4, pp. 70–1.

²⁴ Debax, *Les coseigneurs*; Lyon, *Sibling Bond*.

²⁵ See Chapter 4, p. 85.

²⁶ See Chapter 4, p. 84; as spelled in *MHAEB*, v, 591–3.

Ludwig von Masmünster and his *Lebensgenosse*, who possessed joint fiefs in the vicinity of Basel.²⁷ Joint lordship over other administrative units also resulted in horizontal agreements between interlinked parties. For example, it is clear from an arbitration case in 1352 that the bishop of Basel and the count of Neuchâtel jointly exercised and enjoyed rights and revenues in the *Vogtei* of Diesse, the village of Orvin/Ilfingen, and the town of Bien/Biel, which necessitated complex bilateral arrangements for the long-term administration of justice and collection of incomes.²⁸ In the 1420s and '30s the castle of Heideburg on the south-western fringe of the Black Forest, originally a possession of the counts of Fürstenberg, was a *Pfandschaft* in the joint possession of Count Conrad of Tübingen and Lords Berthold of Staufen and Caspar of Klingenberg.²⁹ On a larger scale, some free cities had to interact associatively with their former episcopal lords and their autonomous cathedral chapters, either to demarcate contested jurisdictions within and around the town, or to reach contractual agreements about how to manage overlapping spheres of activity. There is plentiful evidence of these treaties, and the negotiations that produced them.³⁰ An extreme case is represented by the 1406 treaty of the bankrupt Bishop Wilhelm II of Strasbourg with the municipal council and the cathedral chapter of Strasbourg. Each of the three parties provided an administrator, and the trio governed the bishopric's temporal possessions for ten years, until its financial position was stabilized.³¹ A more usual example is the 1488 treaty between the bishop, chapter, and municipal council of Constance, which regulated their common and respective control over the city's ecclesiastical jurisdiction, weights and measures, road maintenance, and tolls.³²

The shared possession of lordship among members of the same dynasty was even more clearly horizontal and collaborative. This applied at all levels—as the example of the Bock family illustrates—but it is worth focusing more closely on the most powerful upper noble and princely actors, since they are at the centre of the territorialization and state formation narratives of German history which have caused associative dynamics to be overlooked or marginalized. Contrary to the impression of abstract centralization given by these narratives, 'principalities' and 'territories' were effectively agglomerations of properties, incomes, and jurisdictions, which were often governed associatively by brothers (and occasionally cousins, uncles/nephews, and spouses) of the same family.

²⁷ SBS NA/Adelsarchiv no. 670 Masmünster.

²⁸ *MHAEB*, iv, 43–55.

²⁹ *FUB*, iii, 186.

³⁰ See e.g. *MHAEB*, iv, 628–30; TLA Sigm./14.1079.3; ADBR G121, G127, G135.

³¹ AVCUS AA1451/5–7.

³² GLA 209/353.

This dynastically networked format of government was widespread among the most powerful elites in the Empire because of the inheritance customs in German-speaking Europe.³³ Primogeniture was extremely rare in the noble and princely families of the fourteenth, fifteenth, and even sixteenth centuries. It was the norm for all legitimate sons, even those destined for ecclesiastical careers, to adopt their father's title. A Spanish visitor to Schaffhausen in 1436 noted with surprise the fact that, in Upper Germany, all the offspring of a lord of comital rank bore the title of 'count'.³⁴ Many of these titled sons also aspired to participate in the government of their patrimony as equal partners of their eldest sibling.

This customary expectation was usually met in two (interrelated) ways: several relatives co-governed the same properties and jurisdictions simultaneously; or the possessions of the father were split among several heirs, who each received separate portions, but were forced to collaborate in order to make effective use of their still-interconnected assets and networks. We have already seen some instances of the former, in which noble or princely brothers ruled or negotiated in concert as a single political power. To take one example among many, several generations of the counts of Fürstenberg in the fourteenth and fifteenth centuries saw the comital possessions run jointly by two or three brothers on an equal footing, at least in certain circumstances or for certain periods of time before a division was negotiated.³⁵ The widespread custom of partible inheritance usually meant that, sooner or later, the patrimony of a noble or princely father was formally divided between multiple parties. However, this merely altered the framework of the associative relationships between co-ruling siblings and relatives. Whether princes and nobles in a given generation went down the path of condominium or that of partition, contractual agreements (*Erbeinungen*) had to be drawn up which, in the manner of other associations, regulated precisely what the relationship between these horizontally tied parties would be, and what roles, competences, and obligations everybody involved would be assigned.³⁶

While partitioned inheritances could generate conflict and rivalry, the day-to-day impression conveyed by the evidence is of collaboration between the related rulers of sub-agglomerations of noble and princely rights and assets. For example, after the division of the enormous holdings of the Habsburg dukes of Austria in the 1379 Treaty of Neuburg, the western lands of the Leopoldine line were further partitioned among the

³³ On noble/princely inheritance see Spieß, *Familie*, 'Safeguarding Property', pp. 23–45.

³⁴ Stehlin, 'Turnier', p. 163. ³⁵ See e.g. *FUB*, ii, 192; *ibid.*, iii, 227, 323–6.

³⁶ Müller, Spieß, and Tresp, *Erbeinungen*.

four sons of Leopold III (1351–86). The younger three (Leopold IV, Ernst, and Friedrich IV) worked closely together in Tyrol and Swabia and along the Upper Rhine, despite their periodically separate administrations.³⁷ After a phase of individual rule by Friedrich IV (c. 1411–39), the Outer Austrian lordship was again divided between his son Sigmund and his nephew Albrecht VI. The latter was officially regent in the 1440s, and ran his own administration, but from the late 1450s both men had to collaborate in governmental and military endeavours.³⁸ The lands and jurisdictions of the counts of Württemberg underwent similar developments in associative rule in this period. In 1350 Counts Ulrich IV and Eberhard II entered into an oath-bound contract which stipulated that they ‘should have in common’ their ‘lands and peoples’.³⁹ When Count Eberhard IV died in 1419, he left two infant sons—Ludwig I and Ulrich V—to rule the comital possessions jointly, initially under the regency of their mother, Countess Henriette of Montbéliard/Mömpelgard, and a council of nobles.⁴⁰ In 1442 the brothers determined, under the guidance of their mother and a shared group of councillors (‘Retten’), to divide their patrimony in two, with Ulrich setting up court in Stuttgart and Ludwig in Urach.⁴¹ The contract which initiated the division reads in many respects like an alliance treaty: the importance of peace is emphasized in its prologue, as are the ongoing ties between the two counts, who claimed to be proceeding ‘so that we do not come to discord with one another, but may, in peace and brotherliness, co-exist together, remain henceforth [in possession of] our lands and peoples, and protect and govern them’.⁴² The whole process was to be undertaken through regular consultations with the ‘Retten’ at customary *Tage*. Despite their separate courts, the brothers (and, after Ludwig’s death, uncles, nephews, and cousins) maintained closely related administrations, not least because a large proportion of their advisors and retainers were shared. In 1480, for instance, Ulrich and Ludwig’s successors signed a treaty—almost an alliance—which stipulated mutual aid and pooled their criminal jurisdiction and the resources for enforcing it, with a view to the eventual recombination of other lordship rights.⁴³ These associative ties made it relatively easy for the two agglomerations to be reintegrated under a single government following the 1482 Treaty of Münsingen between Ulrich’s son Eberhard VI and Ludwig’s grandson Eberhard V.⁴⁴ Such horizontal contracts and treaties between

³⁷ See Baum, *Habsburger*, pp. 20–168. After Leopold IV’s death, his widow Catherine of Burgundy became an autonomous co-ruler of his possessions alongside Friedrich IV.

³⁸ See e.g. TLA Sigm./01.04.5, 04b.55.152.

³⁹ HSA A602/8.

⁴⁰ See Kühnle, ‘Landesteilung’, pp. 103–38.

⁴¹ HSA A602/86; *AUWG*, pp. 38–46.

⁴² HSA A602/86.

⁴³ HSA A602/295.

⁴⁴ *AUWG*, pp. 65–72.

noble and princely relatives, which were sometimes referred to as ‘aynung[en]’⁴⁵ (a word used to describe alliances and leagues), are a clear indication of how far the ‘territories’ beloved of German historiography were dependent on associative dynamics.

‘TERRITORIES’ AND ‘ESTATES’ AS ASSOCIATIONS

The standard narrative of the crystallization of princely ‘territories’ in the Empire in this period stresses the growth of fiscal and judicial apparatus and the formation of compliant estates, and casts these developments as centralizing tendencies which manifested the rise of the modern state in German-speaking Europe.⁴⁶ Certainly, some developments in the fourteenth to sixteenth centuries can be read into a long trajectory towards more consolidated early modern principalities. However, many of the dynamics of these supposed territories—the composition of their decision-making bodies, for example, or the loyalties of their local officials—depended on associative mechanisms and ties that shaped ‘internal’ relations and cut across notional boundaries. These dynamics took effect in structures and institutions such as princely councils, which often included ‘external’ actors; horizontal and overlapping bodies of elite subjects, or ‘estates’; and the meetings of these groups at council sessions and *Landtage*. This in turn forces us to recognize that political actors in the Empire were in some respects more autonomous than existing narratives and models allow, and that in other respects they were more interdependent. Their positions and relationships were arranged in configurations which rarely mapped neatly onto incipient *territoria clausa*, still less unitary states. A multitude of what might be termed associative connections—i.e. horizontal ties, often enshrined in contracts, between approximate socio-political peers—played out within and across the shifting territorial and jurisdictional agglomerations in the Holy Roman Empire. The notion that elements within ‘territorial’ agglomerations were actually associations of sorts has been suggested before, of course, in the work of both Otto von Gierke and, with a different emphasis, Otto Brunner.⁴⁷ However, as we have seen, these interpretive impulses derived from the fetishizing of the imagined communitarian

⁴⁵ Ibid., p. 66.

⁴⁶ E.g. in Guenée, *États*, pp. 60–75, 245–69, and *passim.*; see also Krieger, *Reichsreform*, p. 1.

⁴⁷ See Introduction, pp. 5–6; Chapter 4, p. 71; Chapter 5, p. 94.

character of pre-modern Germanic peoples, or else from a belief in the timeless legal principles of the Germanic nobility. Against the backdrop of the structures and political culture explored so far, it is possible to consider the link between associative dynamics and the 'territorialization' of the Empire more concretely. Just as 'territorial' lords like the Habsburgs and the Württemberger employed collective and networked modes of dynastic rule, so the political life—even the solidarity—of the lands and jurisdictions under their authority relied in practice on the common, interconnective, and associative political culture examined so far in this book.

To understand how associative dynamics shaped the developing political units in the fourteenth- to sixteenth-century Empire, it is important to note again the extent to which the key administrators within them were, in practice, autonomous powers in their own right. Most councillors, officers, tenants, and members of the estates of princes and upper nobles were also part of the large group of elites who shared in the common ideologies and practices covered in Part I. The *Landvögte* who represented the dukes of Austria on the Upper Rhine and in Swabia in this period, for example, were all imperially immediate actors with their own independent power-bases and connections—men like Count Hugo XII of Montfort-Bregenz (1357–1423), Margrave Wilhelm of Hachberg (1406–82), and Lord Wilhelm I of Rappoltstein (1451–1507).⁴⁸ Such elite figures had plenty of room for manoeuvre in making alliances and distributing patronage on their own initiative, while nominally acting on behalf of the dukes of Austria within the parameters of their office.⁴⁹ Even the margraves of Baden—powerful princes who were second only to the dukes of Austria and the Counts Palatine in the south-western Empire—participated in the Austrian affinity on the Upper Rhine. Margrave Bernhard I was appointed *Landvogt* in the Breisgau in 1384 by Duke Leopold III, while Margrave Karl I was made a councillor ('Rath') of his brother-in-law Archduke Albrecht VI in 1455. In that same year, Albrecht also appointed Bishop Ruprecht of Strasbourg as another of his councillors.⁵⁰ The position of councillor has sometimes been taken to imply socio-political subordination, and is closely linked in most scholarship to the expansion of the courts (*Höfe*) of the imperial princes—much-researched institutions viewed as centres of gravity which catalysed the rise of late medieval and early modern princely territories.⁵¹ Yet Albrecht's interactions with

⁴⁸ See Chapter 4, p. 82.

⁴⁹ The same conclusion has been reached for other regions of the Empire—see Hesse, *Amtsträger*.

⁵⁰ 'Registrarium', ed. Gmelin, p. 117.

⁵¹ See especially Zotz, *Fürstenhöfe*; Paravicini, Hirschbiegel, and Wettlaufer, *Hof und Schrift*.

his new councillors are more suggestive of an associative relationship; indeed, his appointment of these two other princes as *Räte* was accompanied by the creation of a *Landfriede*-alliance with them and several other Upper Rhenish powers against the Swiss Confederates.⁵² The pattern in the sphere of influence of the counts of Württemberg was similar. Their fifteenth-century councillors included numerous upper noblemen who were themselves imperially immediate bearers of comital titles (such as the counts of Werdenberg, Helfenstein, Zollern, Oettingen, Montfort, and Hohenberg), as well as the prince-bishops of Constance and Augsburg.⁵³ It is not surprising, therefore, that a fifteenth-century depiction of a council session (*Ratssitzung*) under Count Eberhard III of Württemberg (1362–1417) resembles in many respects an associative *Tag* held by horizontally related members of an alliance or league (Figure 10; compare



Figure 10. Copy (c. 1540) of a late fifteenth-century depiction of a council session (*Ratssitzung*) of Count Eberhard III of Württemberg (1362[?]-1417) and his councillors. Landesmuseum Württemberg, Stuttgart, WLM inv. Nr 2735. Image from Wikimedia Commons under a Public Domain license

⁵² Krimm, *Baden und Habsburg*, pp. 45–7.

⁵³ Kothe, *Rat*, pp. 103–13.

with Figure 11).⁵⁴ The administrative elites in the princely agglomerations of the later medieval Empire were autonomous, multivalent, and connected to trans-‘territorial’ networks. This situation precludes any interpretation of the political units ruled by princes and other major powers as discrete states-in-the-making. The model of associative political culture offers a more convincing framework within which to characterize and explain the quasi-horizontal nature of their relationships and the collective formats of interaction which they employed.

This has important implications for how the putative political communities under a given ‘territorial’ lord should be understood. Lateral ties between various elites with a shared connection to a particularly powerful overlord or dynasty certainly led in some cases to the formation of polities within the Holy Roman Empire in this period, but it is crucial to understand how very contingent and incomplete these polities were. Neither the concept of the incipient *territorium clausum* nor the Brunnerian notion of a legally defined land-community fully captures the reality of the situation.⁵⁵ The associative perspective offered here suggests that later medieval terms and concepts such as the *Herrschaft* of (Outer) Austria, the *Markgrafschaft* of Baden, or the *Pfalzgrafschaft* (Palatinate) should not automatically be taken to refer either to territories and states or to ancestral legal-political communities. Rather, they denoted bundles of associations that were linked to a particular location or tied to a given lord. Here, as in other areas, associative political culture provides a third and equally if not more plausible optic through which to examine and explain contemporary political solidarities. Rather than consisting of discrete and integrated communities answerable to a single lord, political solidarities were formed of shifting affinities of elites with context-specific and overlapping loyalties to various peers and patrons. As in formal associations, interactions within these affinities, whether among nobles, estates, and councillors or between these groups and their notional overlords, took place at negotiatory summits called ‘diets’ or ‘councils’ (*Tage, Räte*).⁵⁶

Thus, the collectivities of administrators and estates denoted by terms like *Landschaft* and *Landstände* functioned in many respects like long-term associations. In some respects, this made it possible for princes like the

⁵⁴ On the *Ratssitzung* scene—which in this form probably dates from the sixteenth century—see Rückert, “‘Ratssitzung’”, pp. 137–49. Figure 11 is discussed in Chapter 10, pp. 209–10.

⁵⁵ On the *territorium clausum* and Brunner, see Introduction, pp. 5–7; Chapter 4, pp. 70–1.

⁵⁶ All aspects of contractual associations are discussed in Chapters 5–7, *passim*. On *Tage*, see especially Chapter 2, pp. 50–2; Chapter 5, pp. 113–15; Chapter 6, pp. 132–4; Chapter 7, p. 144.

Leopoldine dukes of Austria to extend their influence over a large area, from their base in Tyrol in the east all the way to the Vosges in the west. When Dukes Albrecht III and Leopold III ordered their Swabian *Landvogt* Albrecht von Puchheim to resolve their disputes in the Breisgau in 1368 by organizing a *Tag* at which Puchheim was to 'follow the advice of our councillors up there', they were effectively making use of a network of largely independent associates to make their presence felt at the other end of their notional sphere of authority.⁵⁷ Similarly, in 1380 Leopold III tried to establish minting reforms by issuing a set of recommendations which, rather than being imposed directly throughout the scattered Outer Austrian possessions, were to be considered and eventually implemented by the nexus of 'lords or towns which possess the mints'—a more realistic approach to effecting change via a network of self-sufficient localities.⁵⁸ When disputes arose within the affinities connected to a prince or dynasty, as they frequently did, they could be resolved by arbitration within that affinity, as in any association, limiting the need for extensive central judicial organs.⁵⁹ So it is that in Outer Austria, as in Württemberg and elsewhere, the *Landtag* seems to have developed in the fifteenth century as a more formalized version of the associative *Tag*, rather than as a territorial parliament *avant la lettre*. It enabled decisions taken by the princely administration in consultation with the wider association of elites to be agreed to and carried out by those autonomous local powers which were in the best position to implement them. Archduke Sigmund's invitation to the 1487 Outer Austrian *Landtag* at Meran makes this clear. He wrote to all of the constituent powers and authorities in the estates: 'we recommend that you select and charge two of your most reasonable [representatives], so they can wisely attend the said "tag" in person with authority, and take in hand the necessity of our lands and peoples, and to consult, assist, and not be absent'.⁶⁰ A subsequent invitation clarified that the estates in attendance at the *Landtag* were to offer 'counsel and assistance'—the customary formula that pervaded all associative discourse in German-speaking Europe, as we have seen.⁶¹ The *Landtage* held in the first half of the fifteenth century cannot even be placed in this transitional stage between the associative or judicial *Tag* and the representative institutions of a principality. Rather, the term simply seems to have referred to an assembly of councillors or arbitrators overseen by a *Landrichter* (the office tied to a particular regional court, e.g. in the *Landgericht* in Baar, under the

⁵⁷ GLA 21/2506.

⁵⁸ TLA Urk-I/7441.

⁵⁹ Among many examples of arbitration within the Outer Austrian affinity, see TLA Urk-I/199 (762) (in 1382), I6052 (in 1467).

⁶⁰ UBF, ii, 572–3.

⁶¹ Ibid., ii, 573. See Chapter 6, pp. 124–5.

counts of Fürstenberg, or in the Thurgau, under the dukes of Austria-Tyrol).⁶²

Finally, in addition to displaying associative dynamics, political communities in the 'territories' of the later medieval Empire sometimes presented themselves as associations. The councillors or estates of a principality regularly acted in 'internal' affairs as a single body, and often strengthened the associative character of their ties by means of treaties and contracts which resemble those of the many other associations considered in Part II. This is evident in the case of the 'Arrogation' of 1451–2 by which Count Palatine Friedrich I adopted the electoral dignity on behalf of his infant nephew. The Arrogation was ratified via a treaty sealed by all of the councillors of the Palatinate. In this treaty, these elites depicted themselves as an association of powers who did not merely act as a caste of administrators within the properties and jurisdictions ruled by the Counts Palatine, but collectively formed the dominant parts of the Palatinate itself—or, as they put it in the treaty, the 'splendid councillors and notable members of the Rhine Palatinate' ('der Pfalzgraveschafft by Ryne trefflichen Rete und mergliche Gelidder').⁶³ In the same vein, the elites who referred to themselves collectively as the 'estates' of a region or princely agglomeration (*Landstände*, *Landschaft*, or simply *Land*) were effectively giving an abstract label to a concrete association of powers. This is what made it possible for external authorities to write to 'estates' as a whole. When the bishop of Chur complained to the entire *Landschaft* of the county of Tyrol about the behaviour of the *Vogt* of Matsch in 1420,⁶⁴ or when Emperor Frederick III ordered the *Landstände* of Outer Austria to respect the truce signed by Duke Sigmund and the Swiss Confederates in 1468,⁶⁵ it was understood that these collective terms denoted an association of prelates, noblemen, and communes with lateral ties to one another and a shared connection, in some capacity, to a prince or dynasty. In the case of Tyrol, the associative nature of the *Landschaft* is particularly explicit in the sources. The ecclesiastical, noble, and communal authorities of the county formed several treaty-based associations in the course of the fifteenth century in which they referred to themselves as the estates or *Landschaft* while using an associative vocabulary—words like 'pundnuss' and 'aynung' ('alliance')—to describe their formal union.⁶⁶ The *Land* of Swabia—the term by which the prelates, towns, and nobles of that region referred to themselves collectively, even though they were never notionally united under one princely dynasty—had similar associative undertones.

⁶² E.g. *FUB*, iii, 157; *TLA* Frid./26/5. ⁶³ *UGKF*, no. VI.

⁶⁴ *TLA* Frid./20/1. ⁶⁵ *TLA* Sigm./04b.55.312.

⁶⁶ E.g. *TLA* Kanzleibücher Cod. 122, fol. 1r, 2v, 27v.

These became explicit and concrete when these powers formed the Swabian League from 1487 onwards. All this discursive and structural elision suggests that, to borrow John Watts's expression, '[t]here is a sense in which leagues merge seamlessly into estates'.⁶⁷ Seemingly 'territorial' concepts like the *Land*, the *Landschaft*, and the estates were actually networks of elites which operated according to associative configurations and conventions.

CONCLUSION

It will by now be clear that associative dynamics shaped the interactions of political actors in the southern Empire in almost every sphere of activity. Although what this book has called 'associative political culture' was defined first and foremost by the format of the alliance or league, the paradigm of the treaty-based association, and the modes of interaction it entailed, was extremely widespread, and was adapted to a variety of purposes. The reasons for this relate to two characteristics of Upper Germany in the fourteenth to sixteenth centuries which we have noted repeatedly. First, despite the importance of the Holy Roman Empire as an imaginary political entity, there was no overarching authority capable of organizing political life directly through central governmental institutions. Second, even the most powerful princes in these southern regions were reliant on sprawling and overlapping networks of other quasi-autonomous actors, who rarely maintained straightforwardly vertical relations vis-à-vis each other or their notional lord(s). In these circumstances, the many different actors with a stake in government at some level had to form quasi-horizontal relationships, and regulatory frameworks to accompany them, on their own initiative. Contractual ties which left room for frequent negotiation were the perfect tool for this purpose. The proliferation of treaties and contracts in later medieval Europe has recently become a subject of research in a number of regions, and their particular abundance in the German-speaking lands has prompted Jean-Marie Moeglin to style the Holy Roman Empire a 'laboratory for the institutionalized political contract'.⁶⁸ However, while Moeglin was referring to contracts between rulers and subjects in the Empire's most consolidated principalities, the evidence considered in this chapter points to a much broader vista of contractual and associative activity, anchored primarily in lateral (though rarely equal) relationships between elites. The extraordinary extent to which associative dynamics shaped political life in the southern Empire reinforces

⁶⁷ Watts, *Politics*, p. 103.

⁶⁸ Moeglin, 'Saint Empire', pp. 173–92.

the need for a new perspective to complement and refine the narratives of territorialization and the creation of a segmented 'imperial constitution', neither of which can fully deal with the political dynamics examined in Part II. Before we consider the full implications of an 'associative' model of the Holy Roman Empire—the task of the conclusion of this book—it will be helpful to demonstrate in practice how this model helps to make sense of specific political episodes in the fourteenth to sixteenth centuries. It is to a series of such episodes that we shall now turn in Part III.

PART III

ASSOCIATIVE POLITICAL CULTURE IN ACTION

Four Case Studies

As defined in this book, ‘associative political culture’ is a model that aims to make sense of the structures and conventions of power exhibited by the sources that survive from the later medieval and early modern Holy Roman Empire. Parts I and II have examined the key features of these structures and conventions in Upper Germany: the fragmentation and interconnection of the political landscape; the engagement by all political actors in feuding and arbitration, and the universal use of *Tage* as sites of negotiation; and widespread participation in treaty-based associations as a means of channelling and regulating cooperative and conflictual interactions. The goal of Part III is to demonstrate in a more sustained manner how these elements of associative political culture operated, by reference to four case studies. Each of these will take a series of prominent episodes and significant developments in the southern Empire between the reigns of Charles IV and Charles V, and highlight how events can be understood in terms of the associative political culture shared by those involved in them. The point of these chapters is not to offer exhaustive narratives of these events, many of which are well known and covered in existing scholarship. Rather, they aim to show how attentiveness to associative political culture can illuminate seemingly unintelligible or chaotic episodes, and that it can do so more effectively than other interpretations of these same episodes, and of the later medieval history of the Empire more generally. They also present an opportunity to look beyond the individual and more localized cases, mostly from the Upper Rhine and Swabia, which have formed the bulk of the evidence presented so far, and to examine how associative politics played out on the broader horizon of the Upper

German lands of the Holy Roman Empire. The case studies range from the 1370s to the 1520s, so they also allow for consideration of the extent to which political life evolved over time, which will enable this book to conclude with some diachronic perspectives on continuity and change within the Empire's structures and political culture.

9

The ‘Town War’, c. 1376–89

The so-called ‘Town War’ (*Städtekrieg*) of 1387–9, and the eventful decade that preceded it, has frequently been presented as ‘one of the central conflicts over order [within the Empire] in the fourteenth century’.¹ The narrative of this conflict, as it is typically recounted, can be summarized as follows. In the mid-1370s Emperor Charles IV embarked on a campaign to secure the election of his son Wenceslas as king of the Romans. In order to obtain the funds needed to purchase the support of the electors, he intensified his exploitation of the crown’s resources and prerogatives, primarily by increasing the taxes demanded from the imperial cities and by pledging royal assets—including entire towns—to wealthy princes. In July 1376 the free and imperial cities of Swabia responded to these perceived threats and injustices by forming a large league. Despite a dispute with the monarchs and several princes in 1376–7, the league survived into the 1380s, and in 1381 it formed an alliance with another urban association, the league of free and imperial cities along the Rhine. A series of disorderly wars against noble and princely opponents throughout the 1380s only reinforced the resolve of the cities to act in concert to protect their interests, despite Wenceslas’s attempts to mediate and re-impose order via a series of parallel *Landfrieden*. The strength and unity of the cities reached its apogee in 1385, when an enormous trans-regional league system was sealed between the Swabian and Rhenish town leagues and the towns of the Swiss Confederation. The Swabian towns confidently declared war on the dukes of Bavaria in late 1387 when these princes kidnapped the league’s ally, the archbishop of Salzburg. By early 1388 virtually all the cities of the Middle and Upper Rhine, Swabia, and Franconia were at war with a growing coalition of princes and noblemen, and chaos threatened to engulf Upper Germany. Large-scale military confrontations in the summer and autumn of that year ended in defeat for the towns, and in the spring of 1389 they were forced to accept

¹ Schubert, ‘Städtekrieg, 1387/1389’. See Schubert, *Städtekrieg*, pp. 9–30 for an overview of the nineteenth- and twentieth-century literature, from which this paragraph draws its summary of events.

humiliating peace conditions orchestrated by Wenceslas (who by now strongly favoured the princely faction) in the '*Reichslandfriede* of Eger'.

In its general outlines, this account captures something of what seems to have occurred, based on the sources that survive from these decades. However, there is also much that is overly simplistic about this oft-repeated narrative. First of all, it implies that the wars of the 1370s and '80s were fought by two monolithic 'urban' and 'princely' blocs vying for prominence within the 'imperial constitution'.² Variations on this interpretation have existed since the earliest scholarship of the 'Town War'.³ For much of the nineteenth and twentieth centuries these conflagrations were understood as an inevitable clash between ontologically different socio-political groups: the mercantile, republican (or, in a Marxist idiom, proto-capitalist and bourgeois) towns versus the reactionary feudal nobility, led by the ambitious territorial princes. It is certainly true that these decades saw the creation of leagues which predominantly consisted of cities, and that these leagues were opposed by coalitions led by princes. However, the developments subsumed within the historiographical construct of the 'Town War' were more complex than the narrative of a two-way struggle between inherently opposed groups would suggest. We shall see that a series of interlocking conflicts and negotiations unfolded in Upper Germany between 1376 and 1389, and that they had a variety of possible causes. While some of the sources do contain 'princely' and 'urban' identifications, these apparent solidarities do not, in themselves, explain the events of these years. In reconstructing the course of events by reference to the Empire's associative political culture, this chapter will demonstrate that for most of this period there were not two clear sides in a single war, but rather a series of unstable and overlapping coalitions of shifting allies, rivals, and intermediaries. We shall see that the complicated military and arbitrational activities of the 1370s and 1380s can most accurately be understood in terms of the shared repertoire of associative formats and practices that were prevalent in Upper Germany, rather than a grand narrative of socio-political enmity.

A second disputable feature of existing narratives is the impression they create of a unique and generalized crisis of order in the last decades of the fourteenth century. The competent Charles IV had established law and order in the Empire, so the narrative goes, but he overreached himself in his final years. His model of peripatetic kingship—and the stability it underpinned—crumbled under his idle and corrupt successor Wenceslas, catalysed by economic upheaval and the schism in the Church. These

² E.g. in Moraw, *Verfassung*, pp. 256–8.

³ For an overview of these, with references, see Schubert, *Städtekrieg*, pp. 9–19.

decades are still frequently characterized as a period marked by 'the lack of commonly-binding norms' which 'fostered a general uncertainty in matters of justice, which found expression in the law of the fist and in an increase in feuding, and threatened to spill over into total anarchy'.⁴ This case study will demonstrate that, on the contrary, all the political actors embroiled in the events of the 1370s and '80s were behaving according to the shared structures and principles of associative political culture. Feuding and alliance-making were normal aspects of political life, as we have seen, and all of the supposed upheavals of these years—even the climactic confrontations of 1387–9—can be elucidated in terms of the logic of that culture and its modes of interaction.

In order to appreciate the full complexity of the war, and the ways in which the existing narratives are too simplistic, it is necessary to examine the sequence of conflicts between 1376 and 1389 in some detail. Through a 'thick description' of the activities of the many shifting parties involved in the events of these decades, it will be possible to perceive the recurrent role played by alliances and leagues and by associative approaches to warfare and arbitration. First of all, it is worth surveying the history and circumstances of the league of Swabian towns, because the members of this association were among the most important actors in this episode. The long-term context of intersecting monarchical and associative politics is significant here. As we have seen, alliances of many different sizes and durations were already widespread in the mid-fourteenth century.⁵ The alliance or league format was also the means by which Charles IV implemented his regional peace-keeping programmes in partnership with regional elites. The *Landfrieden* he sanctioned were formal associations, which fulfilled the usual functions of assistance and arbitration.⁶ Several cities in Upper Swabia, Lower Swabia, and around Lake Constance formed leagues in the course of the 1330s to the 1370s, sometimes on their own initiative, and sometimes at the behest of a monarch, or with his sanction.⁷ Thus, when on 4 July 1376 fourteen imperial cities in Swabia and the Lake Constance area formed a four-year league, invoking peace and the common good, this was very much in continuity with the recent past and not an ambitious new departure, as is sometimes implied.⁸ However, the 1376 league did differ from its earlier incarnations in that, beyond stipulating the generic functions of any formal association, it had a context-specific goal to preserve the privileges and liberties of its members, notably their imperial immediacy, even if this meant opposing the emperor

⁴ Hoensch, *Die Luxemburger*, p. 235.

⁵ See examples in Chapter 5, pp. 98–100.

⁶ See Chapter 5, pp. 102–4; Chapter 7, pp. 147–9.

⁷ E.g. *MGHCA*, xi, 459–61; *UAODSB*, ii, 568–99, 1002–3.

⁸ *Ibid.*, ii, 601–5.

himself. Nobody was 'excepted' ('ußgenommen') from the league's possible war targets, although the treaty did allow its members to join *Landfrieden* and ally with noblemen in parallel to their commitments to the other towns.⁹ In this respect, the cities' governments were seeking an associative solution to the growing threat to their prosperity and autonomy presented by Charles IV's recent policy of raising the taxes paid by imperial cities and pledging them to princes. In order to finance the enormous payments he made to the electors to secure the coronation of his son Wenceslas as king of the Romans in 1376, Charles intensified his exploitation of the assets and jurisdictions of the Roman crown. His pledging of the imperial city of Donauwörth to Dukes Friedrich and Stephan III of Bavaria-Landshut for 60,000 fl. in June 1376 was perceived as a grave menace by other municipal governments, most notably that of Ulm, and this provided the short-term justification for their league.¹⁰

These measures of self-preservation were given concrete expression by the cities of the league when they refused to offer homage to the newly crowned King Wenceslas of the Romans on 6 July 1376. This was not an attempt to defend the principle of the right of urban resistance vis-à-vis the crown or the aristocracy, as some interpretations of this Swabian League have suggested.¹¹ Rather, it was the opening gambit in a bid to negotiate with Charles and Wenceslas, via customary *Tag*-based mechanisms, to obtain guarantees about the cities' surviving franchises. Led by Ulm, the municipal governments made their homage conditional upon a new charter promising that Charles and Wenceslas would not impinge further on the cities' liberties.¹² Initially Charles did not back down, and declined to provide the requested charter. Nor did he reverse his policy, and in September he tried to pledge the imperial city of Weil to Count Eberhard II of Württemberg, which drove Weil to join the Swabian League.¹³ Troops were raised by Eberhard and other Swabian and Franconian powers on Charles's orders and Ulm was besieged, but a truce was negotiated by Duke Friedrich of Bavaria-Landshut, the imperial *Landvogt* in Swabia, in the course of September and October 1376 at a lengthy *Tag* in Nuremberg.¹⁴ Hostilities nevertheless continued between the Swabian cities and their main feud-enemy, Count Eberhard of Württemberg, until the spring of 1377, with both sides forging yet more alliances with other towns and nobles in the region.¹⁵ Eventually, in May of that year, Duke Friedrich of Bavaria-Landshut succeeded in brokering a more lasting peace

⁹ Ibid., ii, 603–4.¹⁰ Ibid., ii, 600–1, 605.¹¹ Schubert, 'Städtekrieg, 1387/1389'.¹² *UAODSB*, ii, 616–18.¹³ *GHW*, i, 251–3.¹⁴ *UAODSB*, ii, 610–11.¹⁵ Ibid., ii, 616–21, 636–7.

agreement.¹⁶ This paved the way for a compromise between Charles and Wenceslas and the intransigent cities. On 31 May the monarchs formally pardoned the Swabian communes, confirmed their privileges and perpetual imperial immediacy, and sanctioned the recent reconciliation treaty.¹⁷ However, the two coalitions that emerged in the war of 1376–7, centred on the Swabian cities and the affinity of the counts of Württemberg, endured. They would form the core of the large-scale networks of alliances that developed over the ensuing decade.

In the short term, the uncertainties linked with Charles IV's death in late 1378 and the divided loyalties engendered by the papal schism seem to have encouraged many Upper German powers to join these two coalitions, especially that of the Swabian cities. A contemporary chronicle written in Constance enumerates dozens of powers which joined the fourteen original members within the Swabian League between 1376 and 1383—a list that is confirmed (and indeed expanded) by surviving treaties and correspondence.¹⁸ Within this timeframe, these powers included, at various points, eighteen more imperial cities, such as Esslingen and Regensburg, and the rural communes of Appenzell, but also noble and princely actors, like Duke Leopold III of Austria, Count Heinrich IV of Fürstenberg, and Count Rudolf III of Hohenberg.¹⁹ The league itself was extended until 1385, and thereafter until the 1390s.²⁰ In July 1379 the league even managed to obtain a six-year alliance with the Counts Palatine, Ruprecht I ('the Elder') and Ruprecht II ('the Younger'), and their cousins, Dukes Friedrich, Stephan, Otto, and Johann of Bavaria-Landshut, as well as the two young margraves of Baden, Bernhard I and Rudolf VII.²¹ The originally 'urban' character of the Swabian coalition was clearly no obstacle to the inclusion of noble and princely actors. The lack of surviving correspondence and the formulaic nature of the alliance treaties make it difficult to establish the precise motivations of these parties in allying with one another. However, in the climate of uncertainty that followed the death of Charles IV, and the expiry of many of the peace-keeping unions he had sanctioned during his lifetime, customary associations must have seemed an especially attractive means for Upper German powers to stabilize their mutual relations and seek support against potential feud-enemies.

After the peace of May 1377, tensions between the Württemberg affinity and the Swabian cities remained high, and both sides' grievances were thrashed out at multiple *Tage* in the summer of 1378.²² Low-level

¹⁶ *Ibid.*, ii, 632–3.

¹⁷ *RTA*, i, 190–2.

¹⁸ *UAODSB*, ii, 635–6.

¹⁹ See *ibid.*, ii, 644–67.

²⁰ *Ibid.*, ii, 656–7.

²¹ *Ibid.*, ii, 728–44.

²² *RTA*, i, 213–15.

disputes between the two groups continued thereafter.²³ These disputes took on much larger dimensions when some members of the Württemberg affinity were drawn into three enormous knightly societies in 1379–81: the Societies of the Lion, of St William, and of St George.²⁴ The first of these was founded by networks of Middle and Upper Rhenish noblemen in late 1379. They were led by the archbishop of Mainz and the count of Nassau, and their union was primarily directed against the Counts Palatine. The formation of the Society of the Lion therefore had nothing to do with any rivalry between towns and nobles, and indeed it went on to recruit the municipal government of Basel in the ensuing months. Most of the Outer Austrian nobility also joined this Society between 1379 and 1381, as did the bishops of Strasbourg and Basel and the counts of Württemberg, with Count Ulrich acting as captain of its Swabian component. The Societies of St William and St George were much smaller groupings, founded respectively in Swabia and Franconia in 1380–1, but they were pulled into the influence and activities of the Society of the Lion by the three-way alliances sealed by all the knightly societies in early March 1381.²⁵ By this point the Society of the Lion was involved in several feuds in the Rhineland, notably against Frankfurt, prompting the creation of a formal Rhenish league of free and imperial cities on the foundations of long-standing urban networks in the region. This new league, a union between Mainz, Strasbourg, Worms, Speyer, Frankfurt, Haguenau, and Wissembourg, was founded on 20 March 1381.²⁶ It soon expanded to include other Alsatian and Rhenish towns, as well as several lords and noblemen, not least Count Simon III of Sponheim.²⁷ The inclusion of the Counts Palatine was mooted, but this project was not realized.²⁸ In Swabia, meanwhile, a state of open enmity resumed between the Swabian cities and the counts of Württemberg and their allies, who were now members of the same trans-regional Society of the Lion as the enemies of the Rhenish cities. In June 1381 the Rhenish and Swabian Leagues therefore entered into a formal alliance, with all the customary stipulations this entailed (mutual assistance, procedures for arbitration of disputes).²⁹ The shared hostility of the Upper German cities towards certain members of the knightly societies at this moment in time, and not any inherent sense of urban solidarity, prompted this alliance.³⁰

²³ E.g. *UAODSB*, ii, 711.

²⁴ For what follows, see Ruser, 'Gesellschaften', pp. 31–42.

²⁵ *UAODSB*, iii, 1430–7.

²⁶ *Ibid.*, iii, 63–9.

²⁷ *Ibid.*, iii, 283–9, 364–8.

²⁸ *Ibid.*, iii, 87–92.

²⁹ *Ibid.*, iii, 101–4.

³⁰ See the '*Zusatzvertrag*' signed at the same time: *ibid.*, iii, 104–7.

This multi-theatre conflict could not last long, however. The interests of the knightly societies and the towns actually converged in many respects—their possessions and jurisdictions were often intertwined, and some noblemen, like the counts of Oettingen, were also citizens of some imperial cities.³¹ Duke Leopold of Austria, meanwhile, was not content to allow this disruptive hostility to continue, since some of his key allies and retainers were fighting on both sides of the feuds in Swabia and along the Rhine. These connections also made him an ideal mediator, and in the early months of 1382 he negotiated a truce and then, in early April, a more durable reconciliation at a *Tag* in Ehingen. An Augsburg chronicler claimed, somewhat tendentially, that 'no emperor, king, duke, free lord, or squire could have arbitrated in the war except the noble Duke Leopold of Austria'—a reminder that mediation was not a random process, but contingent upon influence and connections within associative networks.³² The outcome of this mediation was the largest and most interconnected set of associations yet since the Swabian League's foundation in 1376–7. Under Leopold's influence, the Rhenish and Swabian Leagues and the knightly societies agreed on 9 April 1382 to a two-year alliance between all of their respective associations, which effectively brought into being an extensive league system spanning the entirety of Upper Germany.³³ The majority of political actors in Swabia and Franconia and along the Middle and Upper Rhine were now connected to one another by one or more alliance-based ties.

The complex, at times almost contradictory course of events between 1379 and 1382 cannot be explained solely by reference to either of the existing grand narratives of the 'Town War': namely, 'estate'-based conflict within the *Reichsverfassung* or generalized chaos. Only the customary resort to associative modes of interaction among all the different elite groups in the Empire explains the rapid creation and evolution of these alliances. It was also associative means—multilateral negotiation at *Tage*—which brought this phase of the leagues' activities to an end. The starting point of these developments was admittedly the urban reaction to Charles IV's policies in 1376, which led to the creation of two opposing blocs—the Swabian cities and the Württemberg affinity.³⁴ Both blocs then expanded from 1378–9 onwards. The reasons for this expansion are not always easy to discern in the laconic evidence, but it seems clear that many allegiances were determined by the position of particular powers within political networks, rather than by estate-based solidarity. Thus, the Swabian and Rhenish cities won the Counts Palatine and the duke of

³¹ Ruser, 'Gesellschaften', p. 38.

³² *UAODSB*, iii, 1474.

³³ *Ibid.*, iii, 1478–554.

³⁴ See above, pp. 182–3.

Austria as allies, while the cities' opponents in 1376–8—the counts of Württemberg and their allies—played a leading role within the rival coalition of knightly societies.³⁵ Through the mediation of Duke Leopold of Austria these two blocs were brought together in a loose nexus of leagues in April 1382.

Another factor driving these coalitions, which was unrelated to the socio-political character of their members, was the papal schism, and the division of ecclesiastical loyalties that it provoked in the Empire. Wenceslas favoured obedience to the Roman pope, Urban VI, but the dukes of Austria offered their allegiance to the curia at Avignon, led by Clement VII, perhaps because of their dynastic ties to Burgundy.³⁶ In February 1379 Wenceslas had initiated a pan-imperial league of powers backing Urban, so it is perhaps unsurprising that supporters of Clement sought alliances within the Empire.³⁷ As noted above, Duke Leopold forged ties with the Swabian cities and the knightly societies. These last were, at least for some of their members, another means of expressing Clementist allegiance; one of the founding members of the Society of the Lion, the count of Nassau, was the brother of Archbishop Adolf I of Mainz, a fervent supporter of Clement, to whom Adolf owed his archiepiscopal office.³⁸ However, ecclesiastical politics alone do not explain the shifting networks of the 1370s–80s. All of the free and imperial cities followed Wenceslas in supporting Urban, for instance, but this did not prevent the municipal governments in Swabia from accepting an alliance with Leopold in 1378 and with the knights and nobles in the Ehingen treaties of 1382. The generalized and exceptionally frenetic league-making in these years also points to a search for security and regulation. In this period, as we have seen, this was always achieved through associative modes of assistance and arbitration, whether within *Landfrieden*-unions sanctioned by the crown or alliances forged on local initiative, or via a combination of the two. Far from causing chaos and the use of the 'law of the fist', the associative activities of the princes, nobility, and cities manifest an attempt to control and minimize violence and disruption, or at least to attain an advantageous position in any conflicts. This is demonstrated not only by the proliferation of alliances—which can be traced through treaties—but also by the constant and effective use made by the members of these associations in the 1380s of the possibilities they offered for assistance (via *Mahnungen* to allies in times of conflict) and

³⁵ See above, pp. 182–4. For the perception of the knightly societies as a group, see e.g. a letter from Mainz in *UAODSB*, iii, 55, in which 'etwie vil gesellschafft' are mentioned.

³⁶ See TLA Urk-I/8138–43.

³⁷ *RTA*, i, 232–40.

³⁸ Ruser, 'Gesellschaften', pp. 30–2.

adjudication (via arbitration among allies).³⁹ The authors of these alliances also sought to present them as legitimate peace-keeping initiatives. Borrowing vocabulary from *Landfrieden* treaties from the reign of Charles IV, the writers of the Swabian and Rhenish league treaties were at pains to emphasize their commitment to peace, the common good, and the honour of the Empire in their rhetoric.⁴⁰ Similarly, the huge nexus of associations arranged by Duke Leopold in April 1382 was unambiguously presented as a *Landfriede*, founded for the common peace of the land, the protection of pilgrims and merchants, and so on, even though it was created without royal sanction or any reference to Wenceslas.⁴¹

In February 1383 Wenceslas travelled to Nuremberg in the hope of regaining control of the situation by resurrecting his father's model of peace-enforcement through associations of regional powers. He was partially successful, in that the majority of princes and upper noblemen in the southern and western German-speaking lands agreed to join a vast, quadripartite alliance ('eynunge') with the usual stipulations of a formal association, and a strong rhetorical emphasis on peace-keeping and loyalty to the king and Empire.⁴² The overly ambitious nature of the project was immediately acknowledged, however, as Wenceslas had to dispense distant members of the alliance from offering one another military assistance.⁴³ More importantly, the core members of the Swabian and Rhenish leagues, including all the cities, preferred to remain within their own *Landfriede*-like alliances, so a large proportion of the Upper German elite was excluded from Wenceslas's project. This proportion increased as the Swabian League attracted new members in 1384, including Nuremberg and the city and bishop of Basel.⁴⁴ In July of that year the princes, prelates, noblemen, and cities came together of their own accord in a large-scale league, which was even more extensive than the nexus of alliances forged by Duke Leopold of Austria in April 1382. Several *Tage* had been held in Würzburg (1383) and Speyer (February 1384) at which this project was debated without reference to the king, against the backdrop of yet more local feuds.⁴⁵ Count Palatine Ruprecht the Elder took the initiative in bringing these parties together again at Heidelberg in July, a *Tag* which was also attended by Wenceslas. With these two influential figures presiding, the predominantly urban leagues and the powers of the 1383 Nuremberg *Landfriede* were able to come to a

³⁹ See e.g. *UAODSB*, iii, 376, 1770–1, 1774–6, 1908–9.

⁴⁰ See esp. *ibid.*, iii, 63, 101. ⁴¹ *Ibid.*, iii, 1534, 1544.

⁴² *RTA*, i, 367–74. ⁴³ *Ibid.*, i, 374–5.

⁴⁴ *UAODSB*, iii, 1698–1701, 1715–17. ⁴⁵ *Ibid.*, iii, 404–19, 427.

contractual compromise, referred to as a 'stallung'.⁴⁶ In practice it was yet another three-year *Landfriede*-alliance, which guaranteed mutual assistance against those who attacked or harmed the rights of members of the *Stallung*, as well as pilgrims, merchants, and travellers.⁴⁷ Importantly, the *Stallung* did not impinge on the existing alliances of all those who affixed their seals to it.⁴⁸

It is in this context that the nine-year 'Great Town League' of February 1385, sealed at Constance by the Rhenish and Swabian cities with Zurich, Bern, Solothurn, and Zug, should be understood.⁴⁹ This was not, as nineteenth- and twentieth-century historians often claimed, a radical union of proto-republican forces seeking to assert themselves in the Empire.⁵⁰ It could be argued that urban solidarity played a role in its construction, in that it consisted entirely of towns, but this should not be exaggerated as a motivating factor. The main sub-groups within the 1385 league—the Swabian and Rhenish cities—each had a set of noble and princely allies, as we have seen. In any case, the urban character of the league had little obvious effect on its functions, as they were set down in its founding treaty. The league of 1385, like the 1384 *Stallung* of Heidelberg, with which it heavily overlapped, was simply another associative means of attempting to regulate and enforce advantageous peace in the localities of the powers involved in it. It resembled in all respects the alliances, leagues, and *Landfrieden* founded over the previous decade, emphasizing the peace and honour of the Empire and the common good, and defining the spheres within which its members owed one another assistance and adjudication.⁵¹ While Wenceslas did not endorse this new league, he was content to make use of the collective action of the cities, for example as a means of ending local conflicts,⁵² or by allowing municipal governments as a group to erase the debts owed to their Jewish subjects and then expel or expropriate them in exchange for substantial payments to the crown.⁵³

What potential this trans-regional league had to shake up the existing configurations of lordship and association in Upper Germany was in any case never realized. The Swiss towns broke away from the league little more than a year after its foundation, following the outbreak of a feud between the Confederates and Duke Leopold of Austria in 1386. The Swabian and Rhenish allies of Zurich, Bern, Solothurn, and Zug attempted to mediate in the dispute, and then decided that their ties to Duke Leopold within the framework of the 1384 *Stallung* took priority

⁴⁶ Ibid., iii, 524.

⁴⁷ Ibid., iii, 527–40.

⁴⁸ Ibid., iii, 533.

⁴⁹ Ibid., iii, 1785–93.

⁵⁰ See Schubert, *Städtekrieg*, p. 13.

⁵¹ *UAODSB*, iii, 1785–6.

⁵² E.g. *ibid.*, iii, 1608–9.

⁵³ *RTA*, i, 492–503.

over the 1385 agreements, and declined to involve themselves in the so-called 'War of Sempach'.⁵⁴ Leopold's death on the battlefield of Sempach in July 1386, along with dozens of patricians and noblemen from the Outer Austrian lands, resulted in an Austro-Confederate peace treaty (January 1387) which largely removed all these parties from the activities of their former associates north of the *Hochrhein*.⁵⁵ In March 1387 Wenceslas confirmed all the privileges of the cities of Swabia, tacitly acknowledging the legitimacy of their league,⁵⁶ and in October–November 1387 the *Stallung* of Heidelberg with the Upper German princes and nobility was renewed for a further three years at a well-attended *Tag* in Mergentheim.⁵⁷ Both the Rhenish and Swabian Leagues and many major princes, including the Rhenish electors, the counts of Württemberg, and the dukes of Bavaria, were included in the new treaty. The association-based *modus vivendi* that had prevailed in the Upper German lands since the early 1380s looked set to endure for some time.

However, a few weeks later a new conflict broke out among the members of the *Stallung* of Mergentheim. Traditionally viewed as the main act of the 'Town War', the origins of this conflict in fact had nothing to do with any urban actors; rather, it was a contest between princes, and the eventual involvement of the cities is explicable only by reference to the dynamics of associative interaction. For several years tensions over jurisdictions had arisen between Duke Friedrich of Bavaria-Landshut and his eastern neighbour Archbishop Pilgrim II of Salzburg.⁵⁸ Under the guise of seeking to negotiate with Pilgrim, Friedrich invited the archbishop to talks at Raitenhaslach. When he arrived, on 27 November 1387, he and his entourage were seized and imprisoned by the Bavarian duke. Friedrich's armed retainers took over several Salzburg-owned castles nearby, and a number of passing merchants from cities within the Swabian League had their wares and money stolen from them. Wenceslas learned of these developments from Prague in December, and ordered his councillor Bořivoj von Svinaře—a Bohemian nobleman on whom he had bestowed offices in Bavaria—to negotiate Pilgrim's release.⁵⁹ However, Bořivoj was more committed to the local ties of finance, lordship, and association that he maintained in Bavaria, not least with the dukes themselves, than to his notional responsibilities assigned from afar—including the duty of seeking an impartial solution in the dispute between Friedrich and his brothers and the captive prelate. In late January 1388 Bořivoj reported to the king that Pilgrim had been released and that the matter was resolved, even

⁵⁴ Jäggi, 'Sempacherkrieg'.

⁵⁷ *UAODSB*, iii, 2104–28.

⁵⁹ *Ibid.*, p. 40 (esp. note 23).

⁵⁵ *Ibid.* ⁵⁶ *RTA*, i, 546–9.

⁵⁸ Schubert, *Städtekrieg*, pp. 38–40.

though the archbishop was still imprisoned, and the conflict had escalated substantially by that point.⁶⁰ In the weeks that followed he continued to write favourable reports about the dukes of Bavaria to Wenceslas, depicting their growing list of enemies as unjust and unreasonable, and falsely claiming that Pilgrim was free.⁶¹

The archbishop of Salzburg, however, had other sources of assistance. The most important powers with a connection to Salzburg were the Swabian cities and their close noble allies, who had signed an alliance with the archbishop in the summer of 1387. On 15 December of that year several representatives of the members of the Swabian League met at a *Tag* in Ulm to discuss how to proceed.⁶² The municipal governments were motivated by the obligation to provide assistance as per their alliance treaty with Pilgrim, and they were also incensed by the 'great evil and injustice' done to the merchants whose goods were seized by Duke Friedrich's men.⁶³ The representatives agreed to assemble an army before Augsburg, to double the troop commitments specified in the existing league treaties, and to appoint their ally Count Heinrich IV of Montfort-Tettnang—a former retainer of both Charles IV and Duke Leopold III of Austria, and a member of the Society of the Lion—as their captain.⁶⁴ The intentions of the league's leaders initially received support from Wenceslas. On 8 January 1388 the king sent an enmity-letter to Friedrich of Bavaria, and called upon other powers in the Empire to open hostilities against the duke because of his peace-breaking actions.⁶⁵ However, Wenceslas soon retracted this declaration of war when he received falsified reports from Bořivoj von Svinaře claiming that the archbishop of Salzburg had been released and that the dispute was settled. Furthermore, some of the key members of the *Stallung*-based league system renewed in November 1387 declined to respond to the king's invitation to war. Burgrave Friedrich V of Nuremberg, Count Palatine Ruprecht the Elder, and the Rhenish cities all sought instead, unsuccessfully, to open channels of negotiation between the Bavarian dukes and the Swabian cities, citing their ties of alliance to both of these parties.⁶⁶

Thus, when the Swabian League members sent an enmity-letter to Friedrich on 17 January 1388, formally entering into a state of feud with him, they had less support than they might have hoped in light of their extensive alliances within the framework of the *Stallung* of Heidelberg-Mergentheim.⁶⁷ This did not prevent them from attempting to invoke their alliances with the Count Palatine in January and then, in

⁶⁰ *UAODSB*, iii, 2185–6.

⁶¹ Schubert, *Städtekrieg*, pp. 49–55.

⁶² *UAODSB*, iii, 2142.

⁶³ *Ibid.*

⁶⁴ Schubert, *Städtekrieg*, p. 44.

⁶⁵ *Ibid.*, pp. 40–1.

⁶⁶ *Ibid.*, p. 42.

⁶⁷ *UAODSB*, iii, 2179–80.

early February, with Counts Eberhard and Ulrich of Württemberg.⁶⁸ This seems to indicate that the municipal governments in Swabia took the *Stallung* seriously, and had reason to expect that this alliance, which they invoked in their *Mahnung*-letter to the counts, would have an effect. However, the dukes of Bavaria had also sealed the Mergentheim treaty, so the counts of Württemberg and their affinity—perhaps still nursing grievances from the feuds of 1376–82—chose to support Duke Friedrich and his brothers instead, sending a collective enmity-letter to the Swabian cities on 7 February.⁶⁹ The Swabian League did manage to secure an alliance with Margrave Bernhard of Baden on 16 February, but only on the express condition that Bernhard would not be obliged to intervene in any way in the current war against the Bavarian dukes.⁷⁰

As the conflict escalated in February 1388, with the forging of new alliances on both sides and the destruction of the property of the dukes of Bavaria by the advancing army of the Swabian cities, associative procedures for achieving compromise came into play. Friedrich attempted to defuse matters by extracting a 60,000 fl. payment from Archbishop Pilgrim in exchange for his release and the annulment of his alliance with the Swabian cities, but the chapter and estates of Salzburg rejected these exorbitant terms.⁷¹ Count Palatine Ruprecht the Elder, meanwhile, continued to push for a mediatory *Tag* under his supervision. In early March both sides agreed that he should arbitrate at Neumarkt in the Upper Palatinate in the customary manner, offering a compromise or a judgement ('mit der mynne odir mit dem rechten').⁷² On 15 March Ruprecht issued an initial arbitrational outcome ('anlaßbrieff') which called for a truce and reconciliation and the release of all prisoners, but the question of the restoration of the wares stolen from the merchants in November 1387 was not settled and, as was typical in mediatory proceedings, another *Tag* was appointed in April to resolve this.⁷³ However, Friedrich's armed retainers did not respect the deadline for the cessation of hostilities. In late March Regensburg was embargoed and its merchants were abducted by the dukes of Bavaria, while several citizens of Nuremberg, Augsburg, and St Gallen had their possessions stolen, and one of them was murdered.⁷⁴ Thus, when the new *Tag* convened in mid-April at Heidelberg, tensions were higher still than in early March. Ruprecht attempted to extend the *Anlaß* from the Neumarkt conference, in order at least to maintain the truce, but the Swabian cities, backed by their Rhenish allies, now contested the validity of that arbitrational outcome

⁶⁸ Ibid., iii, 2212–13.

⁶⁹ Ibid., iii, 2211–12.

⁷⁰ Ibid., iii, 2215–19.

⁷¹ Schubert, *Städtekrieg*, pp. 55–6.

⁷² RTA, ii, 8. See Chapter 6, p. 134.

⁷³ UAODSB, iii, 2236–9.

⁷⁴ Schubert, *Städtekrieg*, p. 70; RTA, ii, 28.

on the grounds that the dukes of Bavaria had violated its terms. The representatives of the Swabian cities had been sent with a mandate to obtain appropriate restitution for this perceived injustice, and for the original theft of the merchants' wares in November 1387, and were ordered not to accept any result which did not achieve this goal.⁷⁵ However, all other participants at the *Tag*, including third-party mediators within the *Stallung* as well as the Bavarian dukes, were unsympathetic to this recalcitrant position. The only actor who might have been supportive—Archbishop Pilgrim—was still languishing in a Bavarian prison. Sensing that fair terms (from their governments' perspective) were not going to be put on the table, the urban diplomats chose to abandon the conference in secret on 23–4 April rather than be tied to an unpalatable arbitrational outcome.

This understandable course of action proved to be very harmful to the Swabian League's image and options for the remainder of the conflict. In the Upper German nexus of elite networks, which was configured around built-in arbitrational mechanisms for resolving its many internal disputes and feuds, the outright refusal to continue negotiations at a *Tag* must have seemed like an unduly intransigent—even destabilizing—approach. It did not bring Ruprecht the Elder's mediation to a halt; he simply extended the *Anlaß*, and left the possibility open for a future *Tag* to settle any outstanding concerns raised by either side.⁷⁶ The Rhenish cities tried to exercise their influence over the Count Palatine to bring about this new conference in the weeks that followed, but events had already overtaken them. In May the archbishop of Salzburg consented to an *Urfehde*-treaty with Duke Friedrich and was released, exiting the war in the process.⁷⁷ In June Dukes Stephan and Friedrich intensified their attacks against Augsburg, Regensburg, and Kaufbeuren, while the counts of Oettingen occupied Giengen's possessions. Dozens of princes and lords joined the Bavarian dukes in the war against the Swabian League, including the archbishop of Cologne, the bishops of Würzburg, Bamberg, and Augsburg, the burgrave of Nuremberg, Count Palatine Ruprecht the Younger, and Margrave Rudolf of Baden; extremely lengthy enmity-letters listing these actors and their associates survive from June to August 1388.⁷⁸ Even Ruprecht the Elder—hitherto the default third-party mediator in the conflict—sent his feud declaration on 27 July. A multitude of skirmishes and sieges unfolded simultaneously from the Upper Rhine to Franconia.⁷⁹ The municipal governments appealed to Wenceslas, but the king of the Romans was preoccupied by events in Bohemia that summer, and offered

⁷⁵ Ibid., ii, 38–42.⁷⁶ *UAODSB*, iii, 2259–68.⁷⁷ Ibid., iii, 2276.⁷⁸ Ibid., iii, 2293–354.⁷⁹ See Schubert, *Städtekrieg*, pp. 91–105.

little response; so little, in fact, that rumours of his death circulated in Upper Germany.⁸⁰

Throughout July, August, and September 1388, Nuremberg sought desperately to induce its former princely allies to accept a truce and seek mediated solutions, even as the cities assembled large armies at Weil and Ulm, the former led by Peter Stromer, the septuagenarian patriarch of Nuremberg's most powerful patrician dynasty.⁸¹ The Rhenish cities did likewise, appealing in particular to Archbishop Adolf of Mainz.⁸² Ruprecht the Elder, who had little to gain from an extended war against his urban neighbours on the Middle and Upper Rhine, briefly contemplated a *Tag* in early September within the framework of the 'aynung zu Mergentheim'.⁸³ However, most actors in the Bavarian coalition were unwilling to negotiate while the conflict was going their way, and the Mergentheim *Stallung* was effectively a dead letter. These convictions were only reinforced when the princes and lords on the Bavarian side inflicted two major defeats on the city leagues and their allies in the ensuing months. The first came at Döffingen on 23 August, where the Swabian army suffered thousands of casualties, despite killing Count Ulrich of Württemberg on the battlefield; and the second took place near Pfeddersheim on 6 November, where the cities of the Rhenish league suffered a crushing defeat at the hands of Ruprecht the Younger and Margrave Rudolf of Baden. However, despite the common claim that these battles represented the ignominious end of the Rhenish and Swabian Leagues' military adventures, the enemies of the Bavarian coalition were not defeated outright. Nuremberg's troops successfully occupied dozens of Franconian towns and fortresses, especially those of the burgraves of Nuremberg, and peace conferences were planned for 8 and then 11 November.⁸⁴ While these failed to materialize, because many of those invited did not appear, a stalemate was developing across the Upper German lands.

The outburst of widespread violence in late 1388 was followed by extensive and tortuous negotiations at successive and competing *Tage* in the course of the winter and spring of 1388–9. The Swabian and Rhenish cities pinned their hopes on the possibility that relatively neutral or sympathetic princes, such as the archbishop of Mainz, the bishop of Bamberg, or Count Palatine Ruprecht the Elder, might be designated as mediators, leading to as favourable an outcome as they could hope for under the circumstances.⁸⁵ At the same time, King Wenceslas attempted to intervene once more in developments in Upper Germany. On three

⁸⁰ Ibid., p. 98. ⁸¹ Ibid., p. 95. ⁸² *RTA*, ii, 47–9.

⁸³ Ibid., ii, 50; Schubert, *Städtekrieg*, pp. 104–5. ⁸⁴ Ibid., pp. 106–44.

⁸⁵ E.g. *RTA*, ii, 84–7.

occasions he despatched councillors to announce his intention to hold an adjudicatory *Tag*—at Mergentheim in January 1389 and again in February, then at Bamberg in March—and each time power struggles in Bohemia prevented him from appearing as promised.⁸⁶ Finally, on 10 March, having admitted that he could not attend the conference in Bamberg and citing ‘great and vital matters which occupy both us and our brother and our hereditary lands’, Wenceslas selected Eger (Cheb) in westernmost Bohemia as the site of a *Tag* to be held under his direct supervision.⁸⁷ The dominant members of the Bavarian coalition, confident in their ability to influence Wenceslas and his councillors, accepted each of these proposals in turn. The Swabian and Rhenish cities, by contrast, sought throughout this period to arrange alternative summits at which arbitration could be offered by a more favourably disposed prince.⁸⁸ As Wenceslas’s prevarication threatened to open the way for renewed hostilities between the rival coalitions in late February 1389, representatives of the urban governments convinced a group of princes on the Bavarian side to hold the scheduled *Tag* at Bamberg regardless of whether Wenceslas attended it.⁸⁹ Even after the king’s announcement of a new *Tag* at Eger, they succeeded in persuading Count Palatine Ruprecht the Elder to mediate in Bamberg in April. Ruprecht’s price for acting as arbitrator was high: he demanded the release of all the prisoners taken by the cities, extensive reparations, and a one-off payment of 60,000 fl.⁹⁰ The municipal envoys agreed to these exorbitant terms, stating that, in the end, ‘it would be better to purchase peace than yet more war’—an interesting insight into the price political actors might be willing to pay to secure a preferred arbitrator.⁹¹ Ultimately, however, the deeply indebted Rhenish and Swabian cities could not uphold this deal, even when the archbishop of Mainz offered to make a financial contribution towards it. The conference ended without any results.⁹²

Wenceslas therefore succeeded in assembling a *Tag* at Eger in early May 1389, which was attended by all the major participants in the conflicts of the preceding year and a half. Initially the urban delegates were hopeful that Wenceslas would oversee a lenient and balanced arbitral procedure. However, on 4 May Wenceslas not only ordered that all the implicated leagues (Rhenish, Swabian, and Bavarian) be disbanded and replaced by a new *Landfriede*, but also announced measures that clearly targeted the cities specifically. Declaring the privileges he had issued in recent years null and void, he demanded that all Jews and urban

⁸⁶ Ibid., ii, 91, 104–9, 117–18.⁸⁷ Ibid., ii, 150–1.⁸⁸ Schubert, *Städtekrieg*, pp. 167–93.⁸⁹ Ibid., pp. 174–6.⁹⁰ Ibid., pp. 189–92.⁹¹ *RTA*, ii, 200.⁹² Ibid., ii, 198–203.

jurisdictions be returned to him, while the common practice of adopting citizens from beyond urban precincts (*Pfahlbürger*) was to be proscribed.⁹³ This was a clear violation of the expected behaviour of a mediator—even a royal one—in the political culture of the Upper German lands, where some level of compromise was the norm, even if one side had suffered the majority of defeats in a conflict. The Rhenish envoys responded by pleading that they had no authority to negotiate in the face of such shockingly unfavourable terms, adding that they would rather die than return to their governments having accepted such an outcome.⁹⁴ The Swabian representatives, conferring in secret, were torn between abandoning the conference and continuing the war, or accepting Wenceslas's proposed new *Landfriede*, perhaps on the basis that the broadly based *Stallung* of Heidelberg-Mergentheim had not been completely ineffective.⁹⁵ After Wenceslas had softened his jurisdictional demands of the cities, it was the latter option that prevailed: on 5 May he instituted a notionally Empire-wide 'lantfrid und bunnusse', sub-divided into circles in Swabia, Franconia, the Middle and Upper Rhine, Bavaria, Thuringia, Hesse, and Meissen.⁹⁶ Within this association, all of the former members of the Rhenish and Swabian Leagues and the Bavarian coalition were to become allies, with the conventional duties of providing mutual assistance and adjudication. The coalitions of 1387–9 were abolished, and the individual disputes of all the various participants were to be decided 'mit mynne oder mit rechte' in appropriate arbitrational settings.⁹⁷ All *Pfahlbürger* were to have their citizenship revoked, and the cities were to pay reparations to the king and various princes, the value of which was contested in the days and weeks that followed.⁹⁸

Though it was obviously a disadvantageous outcome for the cities in the short term, especially compared to what might have been gained from an arbitrated solution at Bamberg in April, the *Landfriede* of Eger was by no means an ignominious defeat, through which urban aspirations and prominence in the Empire were permanently suppressed, as is often suggested in the secondary literature.⁹⁹ The disbanding of the leagues involved in the war, for instance, was not an anti-urban policy, but an equitable means of putting an end to the hostile coalitions behind the conflicts of 1387–9 (which included the networks fighting on the Bavarian side).¹⁰⁰ It is notable that some other predominantly urban leagues—those of the towns around Lake Constance and the imperial cities in Alsace, for example—were not only ignored in the negotiations of Eger,

⁹³ *Ibid.*, ii, 200.⁹⁴ *Ibid.*, ii, 197.⁹⁵ Schubert, *Städtekrieg*, pp. 195–6.⁹⁶ *RTA*, ii, 157–67.⁹⁷ *Ibid.*, ii, 164–5.⁹⁸ *Ibid.*, ii, 165, 194–214.⁹⁹ E.g. Weindl, 'Städtekrieg von 1388', p. 225.¹⁰⁰ *RTA*, ii, 164.

but received active support from the Roman monarchs into the 1390s and beyond.¹⁰¹ It is in any case absurd to link the peace of 1389 with a desire on the part of the monarchy to get rid of supposedly disruptive leagues, given that the *Landfriede* of Eger was itself a league (a 'buntnusse', as it was called in the treaty document), with extremely similar stipulations to those found in the Swabian and Rhenish leagues, the *Stallungen* of Mergentheim and Heidelberg, and the *Landfrieden* and alliances of the late 1370s. Furthermore, the Swabian networks behind the league of 1376–89 remained highly active, and regional alliances soon re-formed. The local arbitrations and reparation negotiations ensured that the municipal governments remained in close contact throughout 1389–90 and beyond, as multiple *Tage* were held all over the Upper German regions to thrash out on a case-by-case basis what was owed by and to different combinations of towns and lords, and how payment would be implemented.¹⁰² The *Reichslandfriede* of Eger, meanwhile, did not last long, and was soon replaced by more local *Landfrieden*, with Wenceslas's approval, later in the 1390s.¹⁰³

Day-to-day reality in these thirteen years thus greatly resembled political life more generally in the fourteenth and fifteenth centuries, as analysed in Parts I and II: constant cycles of litigation, feuding, and mediation in a variety of interconnected spheres, ranging from the local to the trans-regional. There were flashpoints in 1376–7, 1381–2, 1385–6, and 1387–9, when unusually large-scale leagues engaged in especially violent military operations, but at no point did anything occur which would not be expected or plausible within the constraints of the associative political culture of the southern Holy Roman Empire. Certainly, this was not a phase of acute chaos, nor was it a struggle between reified princely and urban blocs for supremacy within the *Reichsverfassung*. Even the dramatic final act of 1387–9 was really a series of localized disputes that happened to gain a greater coherence because of the extensive coalitions within which regional actors were integrated. It is true that these coalitions were identified with socio-political solidarities by contemporaries who attempted to make sense of the turbulent events of 1387–9. In correspondence from these years, and in near-contemporary chronicles, the conflict was presented as a war between 'the towns' ('die stete') and 'the princes and lords' ('den fursten und herren'), and these imagined collectivities must have played a role in shaping the allegiances of some actors.¹⁰⁴ However, the 'Town War' cannot be understood in its full complexity if these identifications are taken at face value. Indeed, they were only one way in which these events were narrated and understood. When it came to

¹⁰¹ See e.g. Chapter 5, p. 112; Chapter 7, p. 146.

¹⁰² *UAODSB*, iii, 1253–423, 2670–941.

¹⁰³ See e.g. *UBS*, vi, 575–81.

¹⁰⁴ *UAODSB*, iii, 2550. See also *COS*, ii, 835–54.

enumerating the members of any one league, or the multiple interlocking groups involved in the different theatres of conflict in the 1380s, these simplistic labels were replaced by more accurate descriptions. Contemporaries were capable of describing the side of 'the princes and lords' more specifically as 'the dukes of Bavaria and their helpers', for instance.¹⁰⁵ Moreover, in practice the extensive and overlapping associations of this period never consisted solely of one type of actor. Even in 1387–9 the Swabian and Rhenish cities were allied to the archbishop of Salzburg, and retained many noble and lordly associates. Nuremberg, for example, was allied to lords like Hermann von Weidenberg, Ulrich and Caspar von Putendorf, and the bishop of Eichstätt.¹⁰⁶ Furthermore, at every stage between 1376 and the peace of Eger and its aftermath, political actors of every kind (princes, prelates, patricians, and noblemen) showed extreme willingness to negotiate in the customary manner at appointed *Tage*, often within the framework of alliances like the *Stallungen* of 1384–7. Alliances and assemblies were not the preserve of any single group. These associative modes of interaction characterized the entire political elite of the Upper German lands.

Finally, one of the most interesting aspects of this episode is the light it sheds on the role of the kings of the Romans in the later medieval Empire. As his father Charles IV had successfully done throughout the mid-fourteenth century, as his half-brother Sigismund would do in the 1410s–30s, and indeed as Frederick III and Maximilian would in many respects do as well, most notably in connection with the Swabian League, Wenceslas used associative means in the 1370s–80s to manage the politics of the Empire. When he was not preoccupied in Bohemia, Wenceslas was able to exploit, and occasionally create, alliances, leagues, and *Landfrieden*. Like all the Roman monarchs in this period, he attempted to use his royal position as supreme arbitrator to guide the multilateral negotiation that these associations—and the conflicts between their members—entailed. Because of his inability to commit to this course of action, however, his initiatives were either appropriated or ignored by the political actors in the localities, who increasingly resented his absence from the customary *Tage* they held so dear—a state of affairs that ultimately enabled an alliance of the four Rhenish electors to depose Wenceslas in 1400.¹⁰⁷ Yet, with or without the king's input, the 1380s witnessed the creation of some of the largest, most trans-regional associations that the Empire would see until the 1420s, if not the 1480s. In this respect, the 1370s–80s were unusual for the fourteenth century, and they prefigured the 'imperial consolidation' located by Peter Moraw in the 1470s–1520s.¹⁰⁸

¹⁰⁵ *UAODSB*, iii, 1139.

¹⁰⁷ See *RTA*, iii, 254–60.

¹⁰⁶ *Ibid.*, iii, 2494, 2556–7, 2496.

¹⁰⁸ Moraw, 'Funktion', pp. 1–21.

Upper Germany in the Reign of Sigismund of Luxemburg, *c.* 1410–37

The early decades of the fifteenth century, like the last decades of the fourteenth, provide abundant evidence of associative politics at every level and in every sector of elite society in the Holy Roman Empire. However, whereas much of the activity in the 1380s was undertaken on the initiative of regional actors, the alliance-making, feuding, and mediation of the 1410s to 1430s were largely stimulated, at least indirectly, by the king/emperor Sigismund of Luxemburg (king of Hungary, Croatia, and Dalmatia, 1387–1437; king of the Romans, 1410/11–37; king of Bohemia, 1419–37; Roman emperor, 1433–7). As such, his twenty-six-year reign in the Empire provides valuable insight into the potential on the part of monarchs to interact with and harness the associative structures and dynamics in the Upper German lands. Sigismund's reign is all the more interesting because it took place against the backdrop of developments which are traditionally viewed as crises in the Empire and Europe as a whole: the fraught negotiations that ended the three-way papal schism between the Council of Pisa (1409) and the election of Martin V (1417); the rise of a reformist and conciliarist challenge to papal authority within the Church at the Councils of Constance (1414–18) and Basel-Lausanne (1431–49); and the Hussite wars and anti-Hussite crusades of the 1420s–30s.

While Sigismund's role in these developments failed to attract much detailed interest from historians outside of Hungary for most of the nineteenth and twentieth centuries, scholarship of his life and multiple reigns exploded from the mid-1980s onwards, not least because research funding for the study of transnational and pan-European phenomena has increased in recent decades.¹ In the Empire and elsewhere, Sigismund has been shown to have been an exceptionally energetic and shrewd ruler, who strove to enforce his will and maximize the resources available to him by

¹ An overview of this literature up to 2012 is provided in Hruza, 'Einleitung', pp. 13–20.

exploiting the prestige of his titles and mastering ritual and negotiation.² At the same time, his reign in the Empire was punctuated by internal conflicts; his rule bred resentment in some quarters; and he himself was absent from the core imperial lands for many years. These more negative aspects are reflected in a tendency in recent German scholarship to label much of Sigismund's rule as a phase of an 'Empire without a king' (*Reich ohne König*), in which the *Reichsverfassung* had to cope with troubled circumstances without direct input from the monarch.³ Both of these interpretive strands emphasize that the early fifteenth century was a turning point in the development of the Empire as a polity—a time when contact between its leading powers intensified, both in the presence of Sigismund (at the general councils) and in his absence (during the Hussite wars).

This case study will consider evidence of political life in the southern Empire during Sigismund's reign. In doing so, it will build on some of these interpretations—of Sigismund as a competent negotiator and decisive orchestrator capable of bringing about profound change, and of the impact of his absences on the collective activity of the imperial elites—which have proved to be plausible and fruitful ways of making sense of the developments in the Empire in the 1410s to 1430s. By examining events through the framework of associative political culture, it will also seek to contextualize Sigismund's actions and their effects within the widespread and deep-seated political dynamics and configurations along the Upper Rhine and in Swabia. We shall see that investigating Sigismund's reign from an associative perspective yields new insights into how the many layers of government in the Empire operated, and also highlights the need to modify existing narratives about how the fundamental outline and evolution of the Empire should be conceived in this period. This study will be illustrated by particular reference to Sigismund's interactions with Duke Friedrich IV of Austria-Tyrol and their ramifications.

The important role played by associations in the Empire under Sigismund was prefigured by the events leading up to his election as king of the Romans in 1410–11. Already in the 1390s a durable coalition was being formed in the west by the three Rhenish archbishops and the Count Palatine, who acted in unison at a number of *Tage* during the absences of King Wenceslas, eventually forming a six-year alliance on 19 August 1400.⁴ On the following day the four Rhenish electors issued a joint

² See esp. Hoensch, *Sigismund*, pp. 482–525; Schneider, 'Herrschererinnerung', pp. 429–48.

³ Moraw, 'Verwaltung', pp. 54–7; Wefers, *System*, pp. 5–33, 69–93.

⁴ *RTA*, iii, 247–53.

judgement against Wenceslas, in which they declared him deposed for corruption and negligence, and on 21 August they elected one of their own—the Count Palatine—as the new king of the Romans, Rupert I, a radical move that was buttressed by a simultaneous re-affirmation of their electoral alliance.⁵ Rupert's reign was marked by energetic associative activity both on the new king's part (in personal alliances and the promotion of *Landfrieden*) and on the part of his rivals, whose opposition culminated in the 'League of Marbach' (1405–7)—a coalition that included many cities and princes like Margrave Bernhard I of Baden and Rupert's former ally Archbishop Johann II of Mainz.⁶ After Rupert's death in May 1410 the divisions among the electors manifested themselves in a split vote between Wenceslas's half-brother Sigismund and his cousin Jost of Moravia.⁷ The negotiations surrounding the election afforded Sigismund his first opportunity to build alliances within the Empire and harness long-standing associations to a mutually advantageous end. Jost's death in January 1411 enabled Sigismund to reach out to the archbishops of Mainz and Cologne, who had voted against him in 1410. The result was two reciprocal contracts whereby the prelates received guarantees regarding their privileges and Sigismund's stance in the papal schism in return for their support.⁸ The agreement of the other electors had already been secured via two key intermediaries—Burggrave Friedrich VI of Nuremberg (whom Sigismund would elevate to the margraviate of Brandenburg in 1415) and Margrave Bernhard of Baden.⁹ These two partnerships, which Sigismund forged via correspondence before he had even left Hungary, would prove to be of great importance to the new king's style of rule, which relied upon the competence of select actors within their networks and associations in different parts of the Empire. The unanimous election of July 1411 did not resolve the tensions among the Rhenish electors and their neighbours—the rivalries of the previous decade had not disappeared—but a decisive step towards the re-creation of the electoral coalition of 1400 had been taken, and this, too, would shape the politics of the southern Empire during Sigismund's reign.

Sigismund reached the Upper German lands in July 1414, on the way to his coronation at Aachen, having travelled to Italy to pressure the Pisan curia into accepting the free city of Constance as the location for an upcoming general council aimed at resolving the schism in the Church.¹⁰ By this point the connections that the king was building in order to put his planned policies into effect had intensified. In January of that year, for

⁵ Ibid., iii, 254–68.

⁶ Ibid., v, 578–648, 731–65, vi, 204–58.

⁷ On 1410/11 see Wefers, *System*, pp. 5–27.

⁸ *RTA*, vii, 107–10.

⁹ Wefers, *System*, pp. 6–21.

¹⁰ *RI*, xi, nos. 994–1214.

example, he had written to several imperial cities, individually or as associations, requesting financial contributions and troops for countering the threat presented by Ladislas of Naples.¹¹ In support of his request Sigismund emphasized the needs of the Empire, Christendom, and the common good, and in particular the imperative of defending the upcoming Council of Constance. Implicit in his letter was the promise that a swift resolution of his problems in Italy would hasten his arrival in the German lands, which would be accompanied by the distribution and confirmation of privileges coveted by the cities. The recipients of such letters seem to have been selected carefully, based not only on whether they could provide Sigismund with what he needed individually, but also whether they maintained close ties with the king's collaborators at the time. For instance, it is perhaps no coincidence that Strasbourg was chosen as a recipient, as the city was not only a well-connected power in its own right, but was also allied with Count Palatine Ludwig III—a supporter of Sigismund since 1410—at this time.¹² Indeed, Sigismund made the value of such alliances among his collaborators explicit in a letter dating from mid-1414 in which he exhorted the free and imperial cities along the Rhine to maintain their alliances with the Count Palatine.¹³ Count Palatine Ludwig had made a concerted effort to integrate himself into a variety of Upper German associations following his father King Rupert's death, and, alongside his ties to the Rhenish towns, he was a member of the league of Swabian cities and an ally of the counts of Württemberg.¹⁴ Even before his letter-writing campaign of 1414, there are signs that Sigismund was seeking to instrumentalize associations in the Empire. At Chur in September 1413, on the way to Lombardy, Sigismund called a *Tag* with eight representatives from the Swiss Confederation, from whom he requested assistance against Duke Filippo Maria Visconti of Milan.¹⁵ This associative approach seems to have worked well in the early years of Sigismund's reign. Until the conclusion of the Council of Constance—the centrepiece of Sigismund's policy in the 1410s—the new king faced no substantial challenges from the powers in the German lands, with the crucial exception of Duke Friedrich of Austria-Tyrol, and Sigismund's successes against Friedrich were due largely to his ability to draw on the power-bases and alliances of his new partners.

In order to make sense of the conflicts between Sigismund and Friedrich in the 1410s, it is necessary to consider the situation of the Austrian lordships at the beginning of the fifteenth century. In the 1390s and 1400s the brothers Dukes Wilhelm, Leopold IV, Ernst, and Friedrich IV

¹¹ *RTA*, vii, 189–90.

¹² *AVCUS* AA137.

¹³ *AVCUS* AA153.

¹⁴ *HSA* A602/5106, 5425, 5435.

¹⁵ *AEA*, i, 138.

jointly ruled the Upper Rhenish, Swabian, Tyrolean, and Inner Austrian patrimonies of the Leopoldine line of the Habsburg dynasty. After the deaths of Wilhelm (1406) and Leopold (1411), Tyrol and the Outer Austrian lands fell to Friedrich, while Ernst governed Styria, Carinthia, and Carniola.¹⁶ Leopold's widow, the dowager Duchess Catherine (sister of John the Fearless of Burgundy), reached a series of accommodations with Friedrich in 1410–12 which installed her as co-ruler of the Austrian possessions in Alsace and the Sundgau.¹⁷ Friedrich's government was dependent on officers, vassals, and retainers who were highly autonomous, and whose contractual ties to their duke and to one another were quasi-horizontal in nature. Independent powers such as Counts Hermann VI and Rudolf III of Sulz, Count Johann I of Lupfen, Lord Smassmann I of Rappoltstein, and Count Friedrich VII of Toggenburg served as *Landvögte* or *Hauptmänner* for Duke Friedrich and Duchess Catherine, from whom they held some of their fiefs.¹⁸ Friedrich's councillors included the prince-bishops of Constance and Chur.¹⁹ There is plentiful evidence of the autonomy of these actors. For instance, in 1409 Smassmann von Rappoltstein, Austrian *Landvogt* in Alsace, engaged in a lengthy dispute with Friedrich and Catherine, in which the Count Palatine offered a mediated solution.²⁰ When in April 1411 Dukes Friedrich and Ernst made an alliance with the Swabian cities, Rudolf von Sulz felt it necessary to specify that he, too, would join the alliance, since he was the dukes' retainer and councillor; he was sufficiently independent that his membership could not be taken for granted.²¹ The count of Toggenburg, meanwhile, had been a citizen-ally of Zurich since 1400.²² These upper noble leaders of the western lordships of Austria nevertheless formed a united front with Friedrich during the wars against the communes of Appenzell and their allies among the Swiss Confederates (1401–12), mostly within the framework of the Society of St George's Shield, of which many of them were members.²³ These conflicts ended in stalemate, resulting in a fifty-year peace treaty between the Confederates and Duke Friedrich in May 1412.²⁴

Thus, when Sigismund travelled through the Upper Rhenish and Swabian lands in 1414 and oversaw the first weeks of the Council of Constance at the end of that year, the western lordships of Austria were in a fragile but stable condition. However, Duke Friedrich's relations with Sigismund were already deteriorating at this point. Whereas Sigismund's

¹⁶ Baum, *Habsburger*, pp. 20–108.

¹⁷ See their joint activity in e.g. *UBB*, vi, 70–7.

¹⁸ *KC*, p. 159; *RUB*, ii, 549–51; Eugster, 'Toggenburg, Friedrich VII. von'.

¹⁹ *KC*, p. 178.

²⁰ *RUB*, iii, 4–18.

²¹ HSA A602/5422.

²² *AEA*, i, 98.

²³ Burmeister, 'Appenzeller Kriege'. See Chapter 5, p. 114.

²⁴ *AEA*, i, 342–6.

ties to Pope John XXIII were expedient in nature, and intended to last only until his prized general council could negotiate a permanent solution to the schism, Friedrich was a very close adherent of the Pisan pontiff. In December 1413 Friedrich allied himself with the archbishop of Mainz, Pope John's main agent among the German princes, as well as the dukes of Lorraine and Burgundy, an association that Sigismund interpreted as an affront to his authority as acting protector of the Church.²⁵ On 15 October 1414, in Tyrol on the route to Constance, the pope himself entered into a formal alliance with Friedrich and, in the bull *Dum intuitus*, named the duke his *consiliarius* and captain of all papal troops.²⁶ The tension this generated in the relationship between Friedrich and Sigismund was compounded by growing dynastic and territorial disputes between the two rulers, notably in the Adriatic sphere.²⁷

These animosities came to a head in the spring of 1415, precipitated by John XXIII's actions at Constance. Dissatisfied with the minimal influence he was able to wield in the face of Sigismund and the general council, the Pisan pope and the prelates closest to him left the city in secret with Friedrich's assistance on 20 March. In the weeks that followed he fled north-westwards along the Rhine, reaching Freiburg in late April, during which time he rebuffed many demands from the king and the council to return to them.²⁸ The immediate reaction to John's flight in Constance on 21 March, colourfully narrated in Ulrich von Richental's chronicle, seems to have been a mixture of panic and outrage, which Sigismund moved quickly to control. Riding through Constance with the Count Palatine and a band of trumpeters, Sigismund 'shouted with his own mouth' that the city was to be locked down.²⁹ On the following day he had all the prelates and princes gather in the cathedral, where he 'complained before all therein that Duke Friedrich had led the pope away . . . and that he had thereby brought great disgrace upon him [Sigismund] and the holy council . . . and he [Sigismund] requested that they provide him with counsel ["rat"] and assistance ["hilff"] in this matter'.³⁰ Having publicly established Friedrich's culpability and—if Richental's wording is accurate—called for aid against him in the traditional language of associative political culture,³¹ Sigismund placed the Austrian duke in the imperial ban on 30 March, theoretically depriving him of all his possessions.³² A few days later, at the king's behest, the unnerved churchmen still in Constance reassembled for the fifth session of the council and, spurred on by the fear of what the

²⁵ Brandmüller, *Konzil*, i, 90–1.

²⁶ *Ibid.*, i, 92.

²⁷ See Koller, 'Kampf', pp. 313–52.

²⁸ Brandmüller, *Konzil*, i, 271–7.

²⁹ *CKK*, p. 47.

³⁰ *Ibid.*, p. 48.

³¹ See Chapter 3, p. 63; Chapter 6, pp. 124–5.

³² *RI*, xi, no. 1542.

escaped John XXIII might accomplish, promulgated the conciliarist decree *Haec sancta*, nullifying the pope's remaining authority.³³

The chain of events that followed led to the virtual disintegration of Austrian lordship on the Upper Rhine and in Swabia in a matter of weeks. It was made possible by the associative structures and dynamics of this region of the Empire, and in particular by Sigismund's foresight and good fortune in finding partners within the regional nexus of associations. The assembled powers in Constance responded to Sigismund's call for assistance in the customary manner by issuing *Absagebriefe* (declarations of feud-enmity) to be sent to Friedrich. On 22 March alone over 400 enmity-letters were sent.³⁴ More feud declarations followed over the ensuing days and weeks, and as late as 5 May Friedrich's chancery was still receiving *Absagebriefe* from retainers of several imperial princes.³⁵ Significantly, many came from the officers and vassals of the western lordships of Austria, who now banded together against their former lord. The author of the chronicle of the Klingenberger, who remained loyal to Friedrich, depicted the situation in these terms:

the majority of the nobility in these lands—counts, lords, knights, and retainers—turned against the lordship of Austria, and even though most of them had been endowed by the same lordship, and much of what they had was held from the same... they dared collectively to drive out the same lordship of Austria from the land, which indeed occurred... And so they cancelled their loyalty and service to the duke, and all became servants of the king against the aforesaid lordship.³⁶

In fact, Sigismund had been building relationships with some of the key players in the Outer Austrian affinity for some time, which helps explain the rapid and overwhelming opposition to Friedrich following his public condemnation. Count Johann von Lupfen, for instance, had been appointed as Sigismund's *Hofrichter* before the Council of Constance,³⁷ while the counts of Sulz had been reinstated as judges at the *Hofgericht* of Rottweil in 1411, which they brought back into operation with Sigismund's support.³⁸ Now, starting in the last week of March 1415, Sigismund called upon these clients, individually and in alliance with each other and local free and imperial cities, to attack Friedrich's possessions.³⁹ In effect, Sigismund was harnessing the power of associative modes of interaction: he granted various

³³ Brandmüller, *Konzil*, i, 248–50.

³⁴ CKK, p. 48. Most of these *Absagebriefe* are now in Vienna—see Schuler-Alder, *Reichsprivilegien*, p. 47.

³⁵ TLA Frid./15/3.

³⁶ KC, p. 178.

³⁷ GLA 36/741; see also *RI*, xi, nos. 2111, 3247.

³⁸ *Ibid.*, xi, no. 142.

³⁹ E.g. *ibid.*, xi, nos. 1518, 1543, 1547.

urban and noble actors along the Upper Rhine free rein to negotiate and form alliances as necessary in order to overcome Duke Friedrich and convince his subjects to be received into Sigismund's direct lordship as imperially immediate entities.⁴⁰ This tactic was exceptionally effective in the case of the Swiss Confederation. Sigismund had already approached Zurich about the possibility of Confederate aid against Friedrich in February 1415, but its government declined to consider the king's plan, citing the fifty-year peace treaty of 1412.⁴¹ With Friedrich publicly disgraced, this obstacle was removed, and Bern declared war on the duke of Austria-Tyrol on 23 March.⁴² At a *Tag* at Beckenried on 30 March the other members of the Confederation agreed to respond to Sigismund's request for assistance by attacking the Austrian possessions in the Aargau.⁴³

With the mobilization of so many powers against the lordship of Austria, the towns and fortresses that remained loyal to Duke Friedrich were put under severe pressure in April 1415. The Confederates quickly captured or cut off most of the strongholds in the Aargau, while Count Friedrich of Toggenburg besieged the settlements in the *Rheintal* south of Lake Constance. The Thurgau was occupied by Burgrave Friedrich of Nuremberg, while Basel, Strasbourg, and members of the league of imperial cities in Alsace attacked Duke Friedrich's westernmost possessions with the assistance of the Count Palatine.⁴⁴ Desperate missives from his beleaguered subjects reached Friedrich in Freiburg, and in early May he returned to Constance and sought peace, submitting publicly to Sigismund's authority and becoming his hostage, while John XXIII was imprisoned by the Count Palatine.⁴⁵ This formal submission was not enough to end Friedrich's troubles, however. His surrender was unconditional, and it did not prompt Sigismund to order the return of his possessions and vassals. On the contrary, the king was now trying to take control of the conquests made by the Confederates and others, though in the former case he was forced to acknowledge that the new *de facto* controllers of these lands and settlements were to become their *de jure* owners as an association, and in due course he pledged the Aargau to the Confederate towns.⁴⁶ Other settlements north of the Rhine, like Badenweiler, were pledged to local noble supporters of Sigismund.⁴⁷ He also set about cementing the imperially immediate status of former Austrian possessions that remained unconquered, like Freiburg and other

⁴⁰ See *ibid.*, xi, no. 1553.

⁴¹ *AEA*, i, 143.

⁴² *Ibid.*, i, 143–4.

⁴³ *Ibid.*, i, 144–5.

⁴⁴ *KC*, pp. 177–81.

⁴⁵ Hoensch, *Sigismund*, pp. 217–21.

⁴⁶ *AEA*, i, 149–56.

⁴⁷ GLA 21/440–1.

towns in the Black Forest, which offered their homage to the king collectively via his representatives, notably Margrave Bernhard of Baden.⁴⁸

Furthermore, when Friedrich escaped from Constance in March 1416 and headed to Tyrol, his last stronghold, he was faced by yet more opposition made possible through associative activity. By May of that year a group of Tyrolean elites led by the bishop of Brixen and Lord Ulrich of Starkenberg, claiming to act on behalf of the entire 'landschafft', had formed an oath-bound alliance ('ainung' and 'punftnis') directed against Friedrich in order to bring 'great honour and benefit' to Tyrol, with the support of Sigismund's administration in Constance.⁴⁹ While Friedrich held *Tag* ('beteg') with his remaining advisors in Bozen, seeking to bring the alliance to heel, its leaders justified their actions on the basis of their duke's disgrace, and also the perceived problem that Friedrich and his brother Ernst were 'lacking in unity and divided'—i.e. not behaving in the cooperative manner expected of joint rulers of the same dynasty.⁵⁰ This is further evidence that government in the lordship of Austria was an associative affair, to be carried out according to similar principles to those which governed alliances. When Friedrich had appeared in Tyrol in April, Ernst had marched west with an army to confront his brother, and a council of fifteen Tyrolean noblemen and patricians had to convene an arbitral *Tag* in Meran on 9–11 May to resolve the tensions between the two dukes 'zu der minne' or 'zum rechten', which yielded only another *Tag* in Innsbruck at Whitsun.⁵¹ Ernst seems to have doubted Friedrich's competence to rule after the dramatic events of 1415, and wanted to take personal control of the defence of his patrimony.⁵² Friedrich attempted to negotiate with his brother repeatedly over the summer, proposing a formal alliance ('aynung') with him, but Ernst simply appealed to the wider Tyrolean elite, including the alliance led by Ulrich von Starkenberg.⁵³ These internal dynastic disputes were resolved only in March 1418 at a *Tag* in Salzburg, where Friedrich and Ernst were reconciled via the mediation of their cousin Duke Albrecht V of Austria, who was betrothed to Sigismund's daughter.⁵⁴

Upon his return to Constance from a diplomatic tour of western Europe in January 1417, Sigismund had Friedrich excommunicated by the council and continued to promote the transfer of former Austrian possessions to the Empire, and more specifically to his network of clients.

⁴⁸ *RI*, xi, 1635; *UBF*, ii, 253–64.

⁴⁹ TLA Kanzleibücher Cod. 122, fol. 1r–4r.

⁵⁰ *Ibid.*, fol. 4v–4r.

⁵¹ *Ibid.*, fol. 11v. See Chapter 2, pp. 50–2; Chapter 6, p. 134.

⁵² See TLA Kanzleibücher Cod. 122, fol. 13v–15r; TLA Frid./16/2.

⁵³ TLA Frid./16/5; TLA Kanzleibücher Cod. 122, fol. 15v–17r.

⁵⁴ TLA Frid./18/6.

One of the main beneficiaries of this ongoing shift was Margrave Bernhard of Baden, whose new titles, revenues, and jurisdictions enabled him to expand his power-base considerably between 1415 and 1420.⁵⁵ Sigismund's grant of the title of *Landvogt* in the Breisgau to Bernhard in March 1417, and the accompanying power to hand out fiefs in the region on his behalf, was particularly significant, and made the margrave into the most influential power in the lands immediately to the east of the Upper Rhine.⁵⁶ The king also sought to maintain the support of the allied towns of the region, who had provided generous financial assistance to him in the form of taxes and loans during the early years of his reign.⁵⁷ In early 1418 Sigismund travelled to Alsace and the Breisgau in order to confirm the privileges of Strasbourg, Basel, and the league of Alsatian imperial cities. Sigismund's policy vis-à-vis the Alsatian league is especially revealing of his capacity to mobilize local associations. In confirming the eleven cities' privileges jointly in the spring of 1418, he provided much-coveted royal approval of the league, which had not been forthcoming since the reign of Charles IV. Its members reacted by renewing their oaths of alliance to one another and extending their commitment to providing the loans promised to Sigismund and his noble clients in the region.⁵⁸ Sigismund was now in a dominant position on the Upper Rhine. Many members of its elite networks looked directly and eagerly to him for leadership, and he had distributed most of the formerly Austrian possessions among his supporters, with a view to maintaining his regional authority and his finances for years to come. Perhaps as a step towards restoring a sense of normality within this changed political landscape, Sigismund chose at this point to mend his formal relationship with Duke Friedrich of Austria-Tyrol. A treaty of reconciliation between the two rulers was enacted at Constance on 26 April 1418.⁵⁹ The deal came with stringent conditions: Friedrich had to pay hefty reparations, and many of his possessions had to be re-purchased by him, since Sigismund had pledged them to a plethora of other actors.⁶⁰

However, as Sigismund sought to win alliances and cement his position in some quarters, he harmed his relations with other formerly friendly powers. This was unavoidable; the interconnected configuration of the elite networks in the southern Empire ensured that fostering associative ties in some quarters would inevitably infringe on the interests of other neighbouring powers. In this case, Sigismund's actions generated tensions

⁵⁵ GLA 46/147, 477–8; GLA 36/636–7; GLA D/616, 625.

⁵⁶ GLA D/592.

⁵⁷ E.g. a 25,000 fl. loan in 1414 from the league of Alsatian cities. AMC AA52/7.

⁵⁸ CDM, i, 486–92.

⁵⁹ RI, xi, no. 3120a.

⁶⁰ AEA, i, 195–8; RI, xi, nos. 3152, 3153.

with Count Palatine Ludwig. Despite the king's generous pledging policy towards him, Ludwig was growing increasingly impatient with the monarch's interference in his sphere of influence. It was unusual for a king or emperor to be so directly active in this area, and—for all the benefits he derived from it—Sigismund's engagement in Upper Rhenish politics also had costs. Already in September 1416 Ludwig had restored his relations with the archbishop of Mainz and, together with the archbishops of Trier and Cologne, resurrected the electoral coalition of the 1390s–1400s in an alliance sealed at Boppard.⁶¹ This Rhenish configuration would play an important role in both regional and imperial politics over the next decade. The turning point in relations between Ludwig and Sigismund seems to have come in July 1418, when the northernmost of the eleven Alsatian cities—Seltz—was incorporated by force into Ludwig's lordship, on the basis that his father had pledged it to the Palatinate while king.⁶² Having just confirmed Seltz's place within the Alsatian league, Sigismund tried to prevent this annexation, and deputed Ludwig's old rival Margrave Bernhard of Baden to free the town. Bernhard failed, and Sigismund was forced to put off tackling the issue until a planned *Tag* with the Rhenish electors in Trier at the end of the year.⁶³ This conference never materialized, as by then Sigismund had travelled east to pursue yet another association-based agenda: persuading the league of cities led by Ulm and Augsburg to implement a trade embargo against Venice.⁶⁴ By early 1419 the king was heading towards Bohemia and Hungary, not to return to Upper Germany until 1430.⁶⁵

At this point the balancing act whereby Sigismund tried to mobilize his different partners in concert in order to accomplish his goals was no longer working, and in his absence conflicts began to unfold via the customary mechanisms of associative politics. The central issue that now began to divide the powers of the Upper Rhine was the rivalry between Count Palatine Ludwig and Margrave Bernhard of Baden.⁶⁶ The roots of this rivalry lay in the late fourteenth century, when Bernhard, having been a ward of Ludwig's great uncle Count Palatine Ruprecht I, sought to break free from Palatine influence. He was assisted in this goal by King Wenceslas, who confirmed the sole authority of the margrave over the patrimony of the house of Baden in 1382 and 1387.⁶⁷ Following the accession of Ludwig's father Count Palatine Ruprecht III as king of the Romans in 1400, Bernhard

⁶¹ Wefers, *System*, p. 57.

⁶² Vogler, *Décapole*, p. 21; *RTA*, vii, 357–8. See Chapter 5, p. 112.

⁶³ Wefers, *System*, p. 58.

⁶⁴ *RTA*, vii, 361–6.

⁶⁵ Hoensch, *Sigismund*, pp. 359–60.

⁶⁶ On Baden–Palatine relations in these years see Krieg, 'Sigismund', pp. 175–96.

⁶⁷ *Ibid.*, pp. 182–3.

refused to transfer his allegiance from Wenceslas to the new monarch, and later spearheaded the anti-Palatine League of Marbach.⁶⁸ As we have seen, Bernhard then became one of the leading supporters of Sigismund in the Empire in 1410, and was amply rewarded when the royal administration oversaw the transfer of many formerly Austrian assets and jurisdictions around the Upper Rhine into the margrave's hands from 1415 onwards. Bernhard's resulting ascendancy greatly exacerbated his long-standing rivalry with the Counts Palatine, especially in connection with the new tolls and safe-conduct rights acquired by the margrave, which clashed with Ludwig's traditional claims along the same stretch of the Rhine.⁶⁹ By early 1419 the expansion of Bernhard's powers in the Breisgau was also alarming the free and imperial cities on both sides of the Rhine. In a bid to defuse the situation, a series of mediatory interventions were made by Ludwig's allies in the electoral coalition, notably at a summit in Mainz in January 1419.⁷⁰ This meeting is illustrated in one of the few surviving depictions of an arbitral *Tag*, in an illumination dating from the 1430s in the Diebold Lauber workshop's edition of Eberhard Windeck's chronicle (Figure 11).⁷¹

These mediatory efforts were insufficient, however, as Bernhard showed little willingness to compromise, and was slow in returning even his temporary possessions and offices to the rehabilitated Duke Friedrich of Austria-Tyrol.⁷² On 3 October 1422 the league of imperial cities in Alsace, Strasbourg, Basel, and the newly independent towns of Freiburg, Breisach, Neuenburg, and Emdingen responded by forming a five-year alliance. The treaty was steeped in the *Landfriede*-esque rhetoric of peace, the common good, the defence of the roads, and the honour and benefit of the Holy Roman Empire.⁷³ Beyond its generic clauses about assistance and adjudication, the alliance treaty pointedly underlined the need for mutual aid against those (like Bernhard) who were encroaching upon the members' liberties and privileges, and its unusually specific sphere of validity (along both banks of the Upper Rhine in precisely those zones where Bernhard was active) makes it clear that it was designed to counter the margrave's aggression.⁷⁴ In December the cities welcomed Lady Verena of Tübingen-Lichteneck and several lords and knights in the Black Forest into their league.⁷⁵ In 1423 Count Palatine Ludwig joined this anti-Baden coalition.⁷⁶ In 1424 it gained yet more allies and captains, many of whom had played important roles in the Austrian affinity of the

⁶⁸ Ibid., pp. 184–5. ⁶⁹ Ibid., pp. 190–1.

⁷⁰ GLA 46/214; *RMBH*, i, no. 3094.

⁷¹ See *Denkwürdigkeiten*, ed. Altmann, pp. 106–8 for the corresponding passage.

⁷² E.g. GLA 46/456.

⁷³ *CDM*, ii, 19–20.

⁷⁴ Ibid., ii, 21–6.

⁷⁵ *FUB*, iii, 116–18.

⁷⁶ *CDM*, ii, 29–44.



Figure 11. Depiction of an arbitral *Tag* in Mainz in 1419, conducted by the archbishops of Mainz, Trier, and Cologne to resolve the disputes between the Count Palatine, their ally, and the margrave of Baden. The caption also mentions the presence of the duke of Saxony and the margrave of Brandenburg. From Eberhard Windeck's chronicle of the life of Sigismund (c. 1430–40). Österreichische Nationalbibliothek, Vienna, Cod. 13.975. Eberhard Windeck, *Sigismundbuch*, fol. 127v

1400s and early 1410s: Lord Smassmann of Rappoltstein, Count Hermann of Sulz, Duchess Catherine of Austria and her dispersed vassals and towns, and Abbot Wilhelm of Murbach.⁷⁷ Bernhard, meanwhile, formed an alliance with the lords of Lichtenberg, Bishop Wilhelm II of Strasbourg (who was waging a war of his own against the city of Strasbourg), and this prelate's network of noble allies.⁷⁸ Skirmishes between members of these rival associations ensued on both sides of the Rhine, and peace was only

⁷⁷ *UBB*, vi, 172–6, 190; *RUB*, iii, 164–6.

⁷⁸ Sittler, *Maximin*, p. 81.

achieved when Sigismund, hearing of the escalating situation from Hungary, deputed the archbishop of Cologne, the bishop of Würzburg, and the lord of Hohenlohe to intervene as mediators. On 3 July 1424 a *Tag* was overseen by these arbitrators 'on the field outside Mühlberg', and a truce was negotiated.⁷⁹ As often with multilateral conflicts in the Empire, the complex details of the disputes in which the various parties were engaged were consigned to future *Tag*, and these negotiations dragged on into the late 1420s.⁸⁰ These tensions were not fully dissipated until Bernhard's death in 1431, and his successors were able to keep hold of some of the late margrave's acquisitions on a permanent basis, particularly in the Breisgau.⁸¹

While the consequences of Sigismund's patronage and partnerships on the Upper Rhine panned out along associative lines, similar dynamics enabled Friedrich to patch together parts of his former patrimony along the Rhine and the Upper Danube. It was a gradual and painstaking process, in which Friedrich relied greatly on the finances and connections of his vassals and officers—a network he slowly reconstituted in the course of the 1420s and '30s.⁸² For instance, Lord Caspar of Klingenberg was able to use his position as a captain of the Society of St George's Shield and a central figure in Swabian noble and patrician networks to woo back many of Friedrich's former subjects.⁸³ Through the agency of such actors, even large towns like Freiburg were returning to the Outer Austrian fold by 1427.⁸⁴ There were important exceptions; the Aargau was lost definitively and became a Confederate 'collective lordship', Schaffhausen maintained its newfound independence, and even minor towns like Radolfzell resisted reincorporation for several decades.⁸⁵ Still, in view of the dire situation faced by the Outer Austrian lands in the 1410s, Friedrich made substantial recoveries. Just as the collapse of his lordship had been possible because of the loose and associative structure of power in the southern Empire, so these recoveries owed a great deal to the autonomous connections and networks of Friedrich's followers.

Although Sigismund did not enjoy any more dramatic successes on the scale of his proxy war against Friedrich IV in the mid-1410s during the remainder of his reign, it is worth noting briefly that both he and the electors continued to pursue their policies in the Upper German lands by means of the structures and mechanisms inherent in the Empire's associative political culture. Through correspondence with his networks of

⁷⁹ GLA 46/144, 219; *RMBH*, i, nos. 3706–7.

⁸¹ Krieg, 'Sigismund', p. 195.

⁸³ E.g. HSA A602/9618–34; TLA Frid./28/1.

⁸⁵ TLA Frid./26/2–3, 27/3–4.

⁸⁰ E.g. GLA 36/2088.

⁸² Baum, *Habsburger*, pp. 169–208.

⁸⁴ GLA 21/86.

partners, Sigismund continued to try to harness associations towards the goals of defence, peace-enforcement, and neutralization of his rivals while he was engaged in Bohemia and Hungary.⁸⁶ In the 1420s these goals took on a new urgency as the Hussite wars consumed Bohemia and the German-speaking regions along its borders. The most ambitious project that Sigismund concocted in response came in 1422, when he sought to encourage the collation of existing alliances of free and imperial cities across Upper Germany into a sprawling super-league.⁸⁷ He simultaneously granted a series of privileges to the knightly societies 'everywhere in the German lands' which enabled them to ally with one another and with the projected urban league.⁸⁸ The protracted negotiations produced only further local *Landfrieden* in the 1420s, though Sigismund persevered: as late as 1431, when the king had returned to the Empire to oversee the Council of Basel, he was calling for the elites to coalesce into a 'great and broad league ["bunde"] or broad "lantfriden"'.⁸⁹ In late 1432 the captains of the Society of St George's Shield received charters of privileges ('mayes-tätbriefe') from Sigismund, prestigiously decorated with a 'golden bull'.⁹⁰ Not coincidentally, a key member of the Society at this point, Margrave Wilhelm of Hachberg, had been appointed landgrave in the Breisgau and deputy protector of the Council of Basel by Sigismund in 1429–31.⁹¹

For their part, the Rhenish electors also pursued an energetic policy of association and *Tag*-based negotiation in the Empire during the 1420s. The revived electoral coalition of 1416 stimulated multiple arbitrational *Tage* in the ensuing years between its four core members and the various neighbours with whom they had individual or collective disputes.⁹² From 1420 the electors' association became a valuable platform for the promotion of anti-Hussite activity in the Empire, in parallel with Sigismund's efforts to organize this from afar. This collective activity has typically been interpreted as evidence of antagonism between the monarch and the electors, echoing the opposition to Wenceslas mounted by the Rhenish princes in 1399–1400.⁹³ However, the electors' goals and activities also converged with those of Sigismund, at least in the sphere of organizing the defence of the Empire against the Hussites, and this convergence suggests that a purely confrontational reading of electoral policy in the 1420s is not plausible. At an Empire-wide *Tag* in Nuremberg in April 1421, organized but not attended by Sigismund, the Rhenish electors 'allied and leagued together' for the defence of the Empire and Christendom

⁸⁶ See Wefers, *System*, pp. 99–183.

⁸⁷ *RTA*, viii, 216–19.

⁸⁸ *Ibid.*, viii, 219–20.

⁸⁹ *Ibid.*, ix, 542.

⁹⁰ GLA 46/1689.

⁹¹ *Ibid.*; see also GLA 46/1724–6.

⁹² E.g. Wefers, *System*, p. 83.

⁹³ *Ibid.*, p. 120.

against 'the heresy and unbelief that has regrettably arisen in the kingdom of Bohemia'.⁹⁴ Their alliance was soon joined by numerous other Upper German princes and cities, and in the years that followed the electors took the initiative in organizing conferences to discuss the situation in the Empire and call for assistance against the Hussites.⁹⁵ The other Upper German powers seem to have responded enthusiastically to these appeals, even in the regions furthest from Bohemia. The league of imperial cities in Alsace signalled their readiness to supply troops and funds in 1421, and there is evidence that Smassmann von Rappoltstein travelled with the Count Palatine on the second anti-Hussite crusade.⁹⁶ The associative activity of the electors culminated in an expanded 'einunge' sealed at Bingen in January 1424, within which the Rhenish princes were joined by the duke of Saxony and Sigismund's loyal partner Margrave Friedrich of Brandenburg, and mutual assistance, adjudication, and cooperation in the face of the Hussite threat were stipulated.⁹⁷

Thus, both the local and the trans-regional dimensions of the political activity displayed by the sources from throughout Sigismund's reign demonstrate that power at every level in the Empire was exercised and mediated through the customary institutions and mechanisms of associative political culture. If Sigismund enjoyed considerable successes at certain junctures, it was not in spite of or independently from these institutions and mechanisms, but precisely because he devoted considerable energy to harnessing associative interactions and building strategic relationships with leading actors within elite networks. Even during his prolonged absences from the Empire's core lands, Sigismund was able to make use of these partnerships, and could reasonably expect that the associative activity of princes, nobles, and towns would yield results—as indeed they did, in the form of large-scale collective activity against Duke Friedrich of Austria-Tyrol in the 1410s and the Hussites in the 1420s. Not all of Sigismund's projects came to fruition, and he could not always control the longer-term outcomes of his policies, but the notion that there were phases of an 'Empire without a king' during his reign clearly does not stand up to the abundant evidence of his interactions with regional clients and associations. At the same time, the somewhat adulatory view that has developed in recent years of Sigismund as a masterly politician can be tempered by the evidence that it was often felicitous alliances as much as personal skill which made his successes possible. Sigismund's close interactions with far-flung associations like the Swiss Confederation

⁹⁴ *RTA*, viii, 29–31.

⁹⁵ *Ibid.*, viii, 32–8; see also *ibid.*, viii, 84–95, 125–7, 283–327.

⁹⁶ *CDM*, ii, 6–7; ADHR E525.

⁹⁷ *RTA*, viii, 346–51.

also complicate Peter Moraw's influential view of an Empire divided programmatically into regions 'near to' and 'distant from' the king (*königisnabl/königisfern*).⁹⁸

In general, the associative activity of the 1410s–30s contributed to contact and consolidation within the Empire. As in the latter half of the fourteenth century, alliances, leagues, and concomitant *Tag*e were pervaded by rhetoric which valorized peace, the common good, and the Empire, but the notion of 'the Empire' seems to have resonated more strongly and denoted something rather more concrete in the context of the general councils and the Hussite wars. While no league reached the proportions of the coalitions of the 1380s, despite Sigismund's projects in the 1420s, many of the associations formed during his reign were stimulated by the actions of the monarch himself and also by the evolving idea of an imperial community, which the electoral coalitions sought to promote and embody. Collective action may also have been encouraged by the crescendo of discussion about the need for religious and political reform in the Empire that accompanied the councils of Constance and Basel and the many pan-imperial *Tag*e of the 1420s and '30s.⁹⁹ By contrast, more regional communities and lordships, like the patrimony of Duke Friedrich of Austria-Tyrol, proved to be more fragile than narratives of the 'territorialization' of the Empire would allow. We should beware of seeing in these developments a clear-cut dualism between 'crown' and 'estates' or *Kaiser* and *Reich*, as in the Moravian paradigm of the *Reichsverfassung*: we have seen that allegiances to Sigismund and the electors overlapped and shifted rapidly, and that both Sigismund's supporters and his opponents could form associations in the customary way, all evoking the same notions of peace, common weal, and Empire. Indeed, for the first few years of Sigismund's reign, and arguably again in the mid-1420s, the Count Palatine—the keystone of the electoral coalition—was one of the king's closest partners. Beyond these consolidatory shifts, the main impression left by the evidence from the first decades of the fifteenth century is of striking continuity with the fourteenth. As under Charles IV and Wenceslas, albeit in different configurations, traditional means of association- and *Tag*-based interaction remained the hallmarks of political life in the southern Empire. These were the drivers and the framework of politics, from the level of small towns and nobles up to that of the monarch and the electors. This would continue to be the case well into the later fifteenth century and beyond.

⁹⁸ Moraw, *Verfassung*, pp. 71, 383.

⁹⁹ Boockmann and Dormeier, *Reichsreform*, pp. 35–78.

Burgundian Rule on the Upper Rhine and its Aftermath, c. 1468–77

It is widely accepted that the 1470s constituted a turning point in the development of the Holy Roman Empire. In the paradigm of Peter Moraw, it was around this decade that the Empire's 'open constitution' (*offene Verfassung*) underwent an accelerated shift towards 'configured consolidation' (*gestaltete Verdichtung*).¹ The later 1460s saw the return of Emperor Frederick III to the core German lands after more than two decades of absence. His belated engagement with the 'reformist' plans of both princes and cities unleashed a crescendo of Empire-wide activity. The first monarchical ordinance since his 'Reformation' of 1442 was approved and issued in 1467, and the 1471 diet organized by Frederick in Regensburg to counter the advancing Turks not only resulted in peace-legislation ('einen gemein beständigen frieden') for the next four years, but became the best-attended pan-imperial conference until that point.² At the same time, the 1460s and '70s saw unprecedented contact between German powers and the polity of Dukes Philip ('the Good') and Charles ('the Bold') of Burgundy along the western frontier of the Empire, from Guelders to the Confederate lands. The broad outlines of this contact are well known. It had two clear stages: the expansion of Burgundian lordship along the Rhine, and the eruption of a series of conflicts in the mid-1470s known as the 'Burgundian Wars' (*Burgunderkriege*). These wars saw the resounding defeat of Charles the Bold's state-of-the-art army. The same duke's death on the battlefield of Nancy in January 1477 resulted in the inheritance of much of the Burgundian patrimony by the future King and Emperor Maximilian I. These events have been studied extensively, first in the 1930s, '40s, and '50s by German late medievalists who were interested in the supposedly 'nationalist' and '*völkisch*' dimensions of this putative clash of civilizations,³ and then, in the latter half of the twentieth century, within the increasingly international sub-discipline of Burgundian

¹ Moraw, *Verfassung*, esp. pp. 25–7, 420.

² *RTA*, xxii, XIV, 871.

³ E.g. Heimpel, 'Karl der Kühne', pp. 1–53; Brauer-Gramm, *Landvogt*.

studies.⁴ The Burgundian Wars, along with the growing threat from the Ottomans and Matthias Corvinus, are now held to have played a key role in bringing about the consolidatory shifts of the 1470s. They are said to have produced greater unity in the Empire, both conceptually (as the encroachment of non-German-speaking foreigners prompted greater self-definition as a 'German nation') and practically (as ever more intra-imperial contact was required to organize large-scale military defence).⁵

A common strand in this work on the Empire and the Burgundian Wars in the 1460s–70s has been a focus on how contact and consolidation shaped—and were shaped by—the constitutional frameworks of the late medieval/early modern 'state' or *Verfassung*—whether that of Burgundy, the Empire, or the German 'territories'. What has largely been missed is the important role played by associations and their concomitant modes of negotiation and mediation. As we have seen, there is not much scope for engaging with horizontal, multilateral, and interdependent formations in existing paradigms of state formation and constitutional history in this period.⁶ Yet the politics of the Empire in these decades, which were indeed a time of consolidation and evolution, continued to play out within the associative political culture identified in this book. Interaction between the powers in and beyond the Empire continued to be mediated through horizontal alliances and other contractual ties, and negotiation remained centred on *Tage*. Furthermore, even within the agglomerations ruled by the princes of the Empire—'territories' like the lands of Margrave Karl of Baden or Duke Sigmund of Austria-Tyrol—associative dynamics still prevailed, in that their officers and elite subjects were very autonomous and their joint activity resembled that of a league or alliance. In these respects, the years of Burgundian rule on the Upper Rhine and the conflicts that ensued form a valuable case study in the ongoing importance of associative conventions and mechanisms in the political life of the Empire. In some respects Charles the Bold's *modus operandi* mirrored and reinforced the associative modalities of power in the German lands, but in other important ways the forms of administration he oversaw differed considerably from the structures and methods common to the political actors in the southern Empire. This contrast highlights the specificities of associative political culture, both within and across political units, exceptionally well. More generally, the responses of imperial elites to the expansion of Charles the Bold display notable continuities with the behaviours and configurations of the fourteenth and early to mid-fifteenth

⁴ E.g. Vaughan, *Charles*; Paravicini, *Karl der Kühne*; Cauchies, *Louis XI*.

⁵ Moraw, *Verfassung*, pp. 411–12; Sieber-Lehmann, *Burgunderkriege*, esp. pp. 234–300.

⁶ See Introduction, p. 8; Chapter 4, pp. 70–1.

centuries, and the innovations of the 1460s–70s built on these associative ways of doing things, rather than replacing them outright.

In order to understand how the duke of Burgundy came to be involved directly in the Upper Rhenish sphere, it is important to survey the shifting political configurations of the region in the mid- to late fifteenth century. These decades were marked not only by the usual cycles of alliance-making, feuding, and arbitration, but also by ongoing conflict between the Swiss Confederates and the sprawling Outer Austrian affinity of towns and nobles on both sides of the Upper Rhine. In the 1430s–40s and again from the late 1450s these clashes resulted in large-scale troop mobilizations, pitched battles and massacres, the destruction of property, and the conquest of Outer Austrian settlements and jurisdictions by the Confederates.⁷ An Austro-Confederate peace in 1461 failed to defuse tensions all along the *Hochrhein*.⁸ In the Sundgau in the west, disputes between Mulhouse and the Austrian-leaning nobility led to an alliance between this city and Bern and Solothurn.⁹ In the Thurgau and the Hegau in the east, frictions persisted between the Confederates and their ally Schaffhausen on the one hand and local Austrian clients, especially members of the Society of St George's Shield, on the other.¹⁰ These tensions came to a head in 1468, in two interrelated wars. Bern and its allies spearheaded a campaign in the Sundgau against the feud-enemies of Mulhouse, while the partisans of Lord Pilgrim of Heudorf, a pledge-holder of the bishop of Constance and an enemy of Schaffhausen, provoked the Confederates into invading several Outer Austrian settlements in the Black Forest.¹¹ Though Duke Sigmund of Austria-Tyrol had little direct involvement in these conflicts, he had no choice but to accept a disadvantageous peace treaty with the Confederates imposed at an arbitrational *Tag* in August 1468, overseen by Duke Ludwig IX of Bavaria-Landshut, Margrave Rudolf of Hochberg-Rötteln-Neuchâtel, the bishop and chapter of Basel, and the city of Nuremberg.¹² In particular, Sigmund had to pay 10,000 fl. in reparations to the victorious Confederates, who held the town of Waldshut as collateral, while the Confederates achieved further alliances with nearby princes.¹³

These bitter confrontations between the Confederates and their neighbours resulted in a certain hardening of discursive identifications with either 'der herrschaft von Oesterrich' or 'gemeinen Eidgenossen'.¹⁴ However, this apparent polarization belies the fluidity and multivalence of

⁷ Niederhäuser and Sieber, *Bruderkrieg*; Trösch, 'Plappartkrieg'.

⁸ *AEA*, ii, 886–90.

⁹ *CDM*, ii, 459–62.

¹⁰ GLA 123/79.

¹¹ *CDM*, iii, 76–281; TLA Sigm./04b.55.258, 04b.55.310, 04b.55.268, 13.102.

¹² *AEA*, ii, 900–3.

¹³ *Ibid.*, ii, 904–8.

¹⁴ BTBC, p. 222.

associative ties and allegiances in the Upper Rhenish and Swabian sphere in the 1460s. Much of the aggressive political activity undertaken in the name of the Swiss Confederation was specific to Bern and its network of allies and clients, while the other Confederates only became involved occasionally in times of open war. Meanwhile, the Outer Austrian towns and nobles in Upper Alsace had different priorities and leaders from those on the eastern shores of Lake Constance, which were distinct again from those of the political community of Tyrol. The westernmost 'Austrian' *Landvögte*, like Margrave Karl of Baden—a prince of the Empire in his own right—and Lord Thüring III of Hallwyl were autonomous powers with their own interests and networks, who oversaw the dispersal of many of the properties, revenues, and jurisdictions under their purview among actors within and beyond the Outer Austrian affinity.¹⁵ The noblemen of Upper Alsace and the Sundgau were not only independent, but also divided their service and homage between Duke Sigmund, Count Palatine Friedrich I, and Charles the Bold, sometimes serving two or three lords simultaneously in various capacities.¹⁶ Thüring von Hallwyl's nephew, Hans von Hallwyl, exemplifies the many layers of connections these independent actors could accrue: he began his career in the service of Duke Albrecht VI of Austria, then served as a mercenary in Bohemia, after which he sealed a *Burgrecht*-alliance with Bern, fought in the Burgundian Wars as a Confederate captain, and ended his life as a counsellor of Louis XI of France.¹⁷ The logic of shifting alliances and multilateral negotiation predominated in the late fifteenth century, as political fragmentation and local autonomy still characterized much of the Empire.

It was in this context of multiple wars and disputes that Duke Sigmund of Austria-Tyrol turned to the duke of Burgundy for assistance in 1469. This choice was not random: the dukes of Burgundy and their clients had been involved in the western lands of the Empire throughout the fifteenth century. Already in the 1400s Catherine of Burgundy had married the Austrian Duke Leopold IV.¹⁸ As they expanded in the Low Countries and along the Lower Rhine, Philip the Good and Charles the Bold also cultivated relationships with the powers of the southern Empire. In 1465 Count Palatine Friedrich entered into a lifelong alliance with Dukes Philip and Charles, which stipulated mutual assistance and adjudication in their disputes.¹⁹ Charles the Bold also sealed an 'eynunge' with

¹⁵ See e.g. the report on Thüring von Hallwyl's pledging of the villages west of Neuenburg am Rhein in TLA Sigm./04b.049.1; see also *FUB*, iii, 392–400.

¹⁶ E.g. *CDM*, iii, 279, 450–6; TLA Sigm./1.74.

¹⁷ Frei, 'Hallwyl, Hans von'.

¹⁸ See Chapter 10, p. 202.

¹⁹ TLA Urk-I/7538.

Bishop Ruprecht of Strasbourg in 1470.²⁰ Margraves Rudolf of Hochberg-Rötteln-Neuchâtel and Karl of Baden spent extensive periods at the Burgundian court and drew pensions from its treasury, while their relatives married Burgundian vassals in the Low Countries.²¹ In 1467 the dukes of Burgundy drew up a contract for free-passage and non-aggression with the Confederate towns of Bern, Zurich, Fribourg, and Solothurn.²² Peter and Stephan von Hagenbach, knights whose family had deep roots in the Sundgau, both served as mercenaries in Burgundian circles and achieved favour at court.²³ Peter would become the bailiff of the Burgundian possessions in Alsace in September 1469, shortly after he had been made an Outer Austrian councillor and granted a 200 fl. pension by Duke Sigmund.²⁴ Sigmund himself had contacted Philip the Good about a possible anti-Confederate alliance in 1460, and in 1468 he sent ambassadors to both Louis XI of France and Charles the Bold to call for assistance against the aggressive Confederation.²⁵ Reeling from the costly peace of August 1468, Sigmund approached Charles again for financial and military aid. The result was a series of contracts sealed in May 1469, subsequently dubbed the 'Treaty of St Omer', whereby Charles loaned 50,000 fl. to Sigmund and placed him under Burgundian protection, in return for which the duke of Burgundy received Sigmund's scattered possessions and jurisdictions in Alsace and the Sundgau, along with Rheinfelden, Laufenburg, Säckingen, and Waldshut, as pledges ('phandt', 'gaiges', 'pignoratio[nes]').²⁶ Significantly, the Burgundian negotiators extracted from Sigmund the right to redeem the many items of lordship within this agglomeration which had been pledged to other powers.²⁷ By the end of 1469, with the help of his loyal officer Peter von Hagenbach, Charles the Bold had officially taken possession of these Upper Rhenish lands and jurisdictions, which he would hold until 1474, when they were forcibly returned to Duke Sigmund.

While the interactions of the dukes of Burgundy with the princes and cities of the southern Empire in the 1450s–60s conformed to the conventions of associative political culture, centred on reciprocal contracts, the relationship between Charles and his new subjects on the Upper Rhine was shaped by quite different dynamics. We have seen abundant evidence of the autonomy and interconnection of Outer Austrian actors and their neighbours, and the ways in which the dynamics of princely agglomerations mirrored the horizontal characteristics of politics at other levels of

²⁰ TLA Sigm./13.114. ²¹ Vaughan, *Charles*, pp. 90–1.

²² AEA, ii, 899–900.

²³ Claerr-Stamm, *Hagenbach*.

²⁴ TLA Urk-I/4338, 8232.

²⁵ TLA Sigm./04a.182.02, 04b.037.

²⁶ Vaughan, *Charles*, p. 86; TLA Urk-I/8183–5, 8244; GLA 21/7769.

²⁷ GLA 21/1014.

the Empire.²⁸ By contrast, the Burgundian government in the possessions acquired by Charles the Bold in 1469 seems to have aimed to curtail the freedom of manoeuvre of the towns and nobility and to intensify their obedience to a small circle of administrators who answered directly to the duke. This is not to say that political life in Burgundian-controlled areas was radically transformed. In reaction to an older historiography which claimed that the 'French' and 'German' ways of life were inherently antithetical, historians in the 1970s–90s rightly emphasized the continuities between the rule of Sigmund and that of Charles the Bold in the pledged zones. Richard Vaughan speaks of an 'absence of ducal policy in the region of the Upper Rhine' compared to other, more secure territories in the Burgundian composite polity.²⁹ Yet this revisionist approach has underplayed the considerable evidence that Charles did in fact pursue several objectives consistently in Alsace and the Black Forest, and that this entailed a tightening of the administrative configuration of the area, which was effected through intensive (by Upper German standards) correspondence and collaboration with his agent Peter von Hagenbach.³⁰ While Charles disbursed no significant funds to assist Hagenbach in consolidating his Upper Rhenish possessions, he did encourage him to use the means at his disposal to control and exploit them, notably by raising exceptionally large numbers of troops for Burgundy's many wars and building a unified administrative district with streamlined jurisdiction exercised solely by Burgundian officers.³¹

The transition from the loose and associative modalities of Austrian rule to the more intensive and top-down methods of Burgundian government was already evident at the conceptual level. The fragmented and dispersed possessions that had been summarized as 'our lands' or 'the *Landvogtei* in Alsace, the Sundgau, and the Breisgau' under the Austro-Tyrolean regime were given precise administrative labels: Charles was now lord of the 'vice-comitatus et comitatus ac dominorum n[ost]rorum Elzacie et Firet[t]eu', governed by 'n[ostri]s Rectoribus et legislatoribus'.³² In his September 1469 grant of office, 'our beloved and loyal knight, counsellor, and master of the ordinary household, my lord Pierre de Haquenbaq [*sic*']

²⁸ See the discussion of the 1460s above, and Chapter 8, pp. 170–5.

²⁹ Vaughan, *Charles*, p. 92.

³⁰ This chapter draws mostly on the documents from Hagenbach's administration now kept in the TLA. The archival evidence is discussed exhaustively in Claerr-Stamm, *Hagenbach*.

³¹ Examples of Charles discussing the consolidation or exploitation of 'noz pars de Ferraite et Dauxoy' with his administrators can be seen in TLA Sigm./01.80.28, 04a.009.14, 04a.009.17.

³² TLA Sigm./13.110.1, 1.80.20.

was invested with these somewhat fabricated administrative districts: he became 'bailiff' ["Bailli"] of the said vice-county of Auxois [*sic*—a corruption of the *Landgrafschaft* of Alsace?], of the said county of Ferratte [*sic*—a comital title derived from the town of Pfirt], of the said Brisac [*sic*—Breisach], of the said Black Mountain [*sic*—the Black Forest towns of the *Hochrhein*?], and their appurtenances'.³³ Even in the German documents in his trilingual chancery, Hagenbach was sometimes referred to as 'gubernierer'—a highly unusual term in the Empire at this time, presumably imported from Burgundian administrative jargon.³⁴ The new regime was made visible to the local population by the replacement of all Austrian arms and banners with the Burgundian cross, even though this was only a temporary transfer of lordship via a pledge contract, and the establishment of a kind of uniformed police force in all major settlements which was answerable directly to Peter von Hagenbach. These local enforcers seem to have made a great impression in their liveried costumes—a rarity in the German lands at this time.³⁵

More important still than these aesthetic and conceptual changes were the Burgundian policies aimed at centralizing and streamlining the pledged zones under a single administration, which began to make extensive military and jurisdictional demands of its subjects. These moves contrasted with the decentralized and associative political culture that had characterized the Upper Rhine until this point, and continued to characterize the areas beyond Charles the Bold's control. Soon after the sealing of the May 1469 contracts, Charles commissioned a report on the state of his new acquisitions, in which it was explained just how many of the jurisdictions and revenues within them had been pledged to third parties, and how much autonomy those holding fiefs within Charles's new lands enjoyed.³⁶ Subsequent reports in 1470 and 1471 reinforced this picture. The dispersed and multilateral nature of government and tenure on the Upper Rhine did not escape the notice of Burgundian administrators, who wrote to Charles about the fact that many partial possessions of his were 'in several hands' ('en plus[ieu]rs mains'), and recommended measures for acquiring complete and unitary control of these places.³⁷ Between 1469 and 1474 Peter von Hagenbach aggressively pursued tenants within the lands under his purview, including external parties like the government of Basel, in order to redeem their pledges and consolidate ducal authority over all the revenues and jurisdictions in the

³³ TLA Urk-I/8232.

³⁴ TLA Sigm./1.80.19 fol. 2v.

³⁵ Sieber-Lehmann, *Burgunderkriege*, pp. 52–3.

³⁶ ADBR C47/1.

³⁷ TLA Sigm./04b.49.1.

Burgundian districts.³⁸ With Charles's sanction, the funds to enable this were sometimes extracted forcibly from subject towns like Thann.³⁹ In some cases these forced redemptions involved the displacement of multiple co-tenants in a single castle or settlement to make way for unitary Burgundian lordship under Hagenbach as a sole 'hauptmann'.⁴⁰ Where redemptions could not be carried out, Hagenbach took oaths of loyalty from the inhabitants of the possessions and jurisdictions held by third parties, undermining the authority of the pledge-holders.⁴¹ These heavy-handed methods, which disrupted local networks of lordship, were compounded by military exactions. Charles the Bold billeted thousands of mercenary troops in his Upper Rhenish settlements, and sought to extract as many soldiers as possible from them.⁴² In December 1470 he ordered Peter von Hagenbach to submit a report on how many cavalry and infantry the lands under his authority could provide.⁴³ A month later he sent Jean de Neuchâtel to round up 4,000 soldiers from the Upper Rhenish lands—the kind of military request that would be repeated several times in 1471–4.⁴⁴

Unsurprisingly, the Burgundian regime's controlling and exacting approach to jurisdiction and troop-raising generated complaints and opposition. According to a Strasbourg chronicle, the inhabitants of the lands pledged to Charles in 1469 wrote to Duke Sigmund complaining that 'the Burgundian bailiff did not want to allow them to remain with their good old traditions'.⁴⁵ Hagenbach's councillors received petitions from towns begging to be exempted from Burgundian troop-levying mandates.⁴⁶ The Burgundian bailiff had to resort to armed force in order to try to enforce his will in several locations, notably at Ortemberg.⁴⁷ The Upper Rhenish subjects of Charles the Bold were not only opposed to his day-to-day measures, but seem to have perceived the contrast between the Burgundian style of rule and what we would call the decentralized and associative regime of the dukes of Austria-Tyrol and their autonomous vassals and officers. At his trial in 1474, discussed below, one of the crimes of which Hagenbach was accused was tyranny.⁴⁸ Several verses from the 'Rhyming Chronicle about Peter von Hagenbach and the Burgundian Wars', written by a patrician in the Outer Austrian (and temporarily Burgundian) town of Breisach around 1480, demonstrate an awareness of the governmental differences between Burgundy and the Empire. The

³⁸ TLA Sigm./04a.009.08, 04a.009.13–14, 04a.182.05; *UBB*, viii, 293–5, 315–19.

³⁹ TLA Sigm./04a.009.10, 13.110.1. ⁴⁰ TLA, Sigm./01.80.19 fol. 2r, 01.80.54.

⁴¹ TLA Sigm./1.80.19 fol. 2v. ⁴² E.g. TLA Sigm./01.79, 01.80.44.

⁴³ TLA Sigm./01.80.35.

⁴⁴ TLA Sigm./01.80.46; see also TLA Sigm./01.07.1, 01.80.25. ⁴⁵ SAC, p. 185.

⁴⁶ E.g. TLA Sigm./01.80.52. ⁴⁷ TLA Sigm./01.80.49, 01.80.56.

⁴⁸ Sieber-Lehmann, *Burgunderkriege*, pp. 61–7, 89–94.

following words were attributed by the chronicler to Hagenbach in an address he made to the citizens of Breisach:

‘I do not want to lie to you,
my lord [Duke Charles], by his hand,
subjugates the land,
with many good knights/nobles,
whom he targets out of necessity,
in order to bend them to his will,
by means of terrifying methods,
in order that for all time
they obediently ride to him,
and should anyone wish to be left out,
he [Charles] would soon drive him [the dissenter] out.
... [W]hereas my lord of Austria
has only a light grip on his knights and retainers,
of all the things he would order,
not one would be accomplished,
therefore the prince [of Austria] suffers being driven away
and cannot deal much with his lands[.]’⁴⁹

While it seems unlikely that Hagenbach actually made this speech, this blunt (and obviously exaggerated) articulation of the difference between the government to which the Burgundian duke and his officers aspired and the realities of political life under the dukes of Austria-Tyrol is revealing. Not only are the contrasting political cultures evident in the documentary sources that survive today, but they were also clear to contemporaries who experienced both Austrian and Burgundian lordship.

The short-lived Burgundian administration presided over by Peter von Hagenbach also antagonized almost all of the external political actors in its vicinity. Mulhouse’s relations with the new regime were even worse than with the Outer Austrian nobility in the 1460s, and it reported its grievances regularly to its allies Bern and Solothurn.⁵⁰ Charles the Bold and Hagenbach plotted to have Bishop Johann V of Basel removed or pensioned off, to be replaced by a client more amenable to Burgundian expansion, one Anthoine Haneron of Bruges.⁵¹ The policy of jurisdictional

⁴⁹ “Ich will euch nit liegen, / mein herre mit seiner handt / bezwinget umb sich die landt / mit ytel guter ritterschaft, / das er mit noth thut behafft, / zu im zu zwingen, / die miesßen mit forchtsamen dingen / im zu allen zeiten / vast gehorsamlich zu riten, / und welcher wolt außbliben, / so wurd er in bald vertriben. / ... aber mein herre von Österrych / haltet sein ritter und knechte licht, / uber alles, das er heißet, / würt en keines von inen geleistet, / darumb so liden der fürste trang / und komet gar umb sein land”. *QBL*, iii, 278.

⁵⁰ *CDM*, iv, 6–11, 16–18, 33–5, 40–9, 95–102.

⁵¹ TLA Sigm./01.80.11, 01.80.30.

consolidation interfered with the many contractual ties between actors within the Burgundian zones and their external neighbours. The attempted redemption of Rheinfelden was an affront to Basel, for instance, since the town had been held as a pledge by that city's government for decades.⁵² Associative relationships demanded mutual assistance in conflicts, and between 1469 and 1471 some of the Burgundian towns and nobles had obligations towards Duke Ludwig of Veldenz, the leader of a coalition that formed to oppose Count Palatine Friedrich when this prince attacked the monastery of Wissembourg in Lower Alsace.⁵³ However, Charles tried to prevent his subjects from getting involved in the conflict, and, when this failed, to oblige them to return immediately from the war, in order to protect his friend and ally Friedrich.⁵⁴ Still more threatening was Hagenbach's July 1472 ban on cereal exports to Upper Rhenish towns outside of the lands he controlled, which jeopardized the food supplies of Basel, Strasbourg, Colmar, and other cities.⁵⁵ It was feared that this was a first step towards the conquest of more Upper Rhenish lands by Charles the Bold. The prevailing attitude among Hagenbach's neighbours can be gauged from the impressions expressed by the government of Hagenau, recorded in a 1475 letter to Frederick III: 'the duke of Burgundy is now powerfully situated in the German lands around us, and it has been believably suggested to us that certain towns and castles around us will soon be swallowed up [by the duke], because of which we are greatly worried'.⁵⁶

In the course of the years 1470–4 the powers near the Burgundian possessions on the Upper Rhine began to undertake collective action in order to counter the threat they perceived in Peter von Hagenbach and Charles the Bold. They did so using the customary mechanisms that had defined associative political culture in the Holy Roman Empire since the fourteenth century. Already in July 1470 a *Tag* was held in Basel by representatives of the Upper Rhenish and Confederate cities, the Count Palatine, and the bishop of Basel to discuss how to manage their relationship with Hagenbach's administration.⁵⁷ By early 1473 repeated meetings of this sort had led to concrete suggestions about a regional alliance, and in March a possible treaty was drafted.⁵⁸ The would-be allies also discussed ways of financing redemption payments to Charles the Bold in order to return the lands pledged to him in 1469 to the Outer Austrian affinity.⁵⁹ These discussions became more urgent in the course of 1473. As news

⁵² *BC*, iii, 373.⁵³ *RTA*, xxii, 171–235.⁵⁴ TLA Sigm./01.80.43; TLA Urk-I/8188.⁵⁵ TLA Sigm./01.80.51.⁵⁶ TLA Sigm./13.128.⁵⁷ *AEA*, ii, 412.⁵⁸ *CDM*, iv, 103–4.⁵⁹ TLA Sigm./04a.009.04.

filtered through of the duke of Burgundy's meeting with Frederick III at Trier in November, rumours circulated that Charles, as a newly crowned king of Lotharingia, would annex all of the Upper Rhine.⁶⁰ A *Tag* was organized at Mulhouse by the Confederate and Upper Rhenish cities, and measures were agreed for the event of a Burgundian invasion of the entire region.⁶¹ These fears proved unfounded—Charles did travel to Alsace in December, but passed through it peacefully. Nonetheless, the plans for a grand alliance progressed.⁶²

Duke Sigmund, meanwhile, was soon disappointed by the lack of concrete assistance he received from Charles the Bold, and he, too, was alarmed by Burgundian policies in the pledged lands. His interests therefore began to converge with those of the Confederates and their allies and contacts. Between 1471 and 1474 his councillors reached several contractual accommodations with the Confederates at a series of *Tage*, assisted by mediation from the bishop of Constance.⁶³ Traditionally Louis XI of France has been viewed as the orchestrator of this Austro-Confederate convergence and the anti-Burgundian coalition which followed it.⁶⁴ While Louis XI's ambassadors nominally oversaw some of these negotiations, in reality they offered little more than lukewarm encouragement and promises of future financial support.⁶⁵ The negotiations culminated in a treaty known to Swiss historiography as the *ewige Richtung*, whereby the duke of Austria-Tyrol and the Confederates set aside their differences and entered into an eternal pact to respect each other's rights, follow defined adjudicatory procedures, and make common cause against either side's enemies—the sub-text here being that Charles the Bold was one such enemy.⁶⁶ This treaty already existed in draft form in March 1474, but it was only formalized in June, and its finer details were thrashed out at a *Tag* in Feldkirch in October.⁶⁷ However, the rapprochement between the Confederates and Sigmund had already advanced enough in early 1474 for both powers to be party to the final iteration of the planned Upper Rhenish coalition against Burgundy. By March the urban members of the nascent league were prepared to provide almost all the funds needed to redeem the pledged zones on Sigmund's behalf, with Strasbourg alone offering 40,000 fl.⁶⁸ Between 31 March and 4 April both the

⁶⁰ See Vaughan, *Charles*, pp. 139–55.

⁶¹ *BC*, ii, 24–5.

⁶² *CDM*, iv, 135–52.

⁶³ TLA Sigm./04b.55.277–9, 04b.55.280–6, 04b.55.313, 04b.55.351–60.

⁶⁴ See Vaughan, *Charles*, pp. 274–8.

⁶⁵ TLA Sigm./04b.55.350. For a detailed analysis of the *ewige Richtung*, see Scott, *The Swiss*, pp. 9–10, 21–2, 57–8.

⁶⁶ *AEA*, ii, 913–16.

⁶⁷ TLA Sigm./04b.55.287–93, 04a.017, 01.73.1.

⁶⁸ TLA Sigm./04b.046.

Confederates and Sigmund sealed ten-year alliance treaties with the leading proponents of anti-Burgundian cooperation, namely the bishops of Basel and Strasbourg and the cities of Basel, Strasbourg, Colmar, and Séléstat, at a *Tag* in Constance.⁶⁹ The league consisting of these last six powers would endure for two decades, and be known as the 'Lower Union' ('nieder verainung'—which might be translated more helpfully as 'lower alliance/league').⁷⁰

The anti-Burgundian league of March/April 1474 was a classic formal association in every sense. It promised mutual counsel and assistance in conventional terms ('rate, hilff und bystandt'), a stipulation which was valid against all enemies, though 'a duke' was pointedly mentioned as a thinly veiled reference to Charles the Bold.⁷¹ Disputes between members were to be resolved via customary arbitration within the association.⁷² In a sign of direct discursive and legislative interrelationship between regional associations and Empire-wide activity, the writers of the treaty of 4 April not only used the usual language of peace, necessity, the common weal, and the honour of the Holy Roman Empire, but also invoked three pieces of imperial legislation: the 'gulden bullen' (1356), the 'gemeinen reformation zu Franckfurt' (1442), and the 'keiserlichen fridens zu Regenspurg' (1471).⁷³ The treaty also featured a rhetorical innovation: its authors asserted that the alliance had not only been made for the sake of the 'peace, common good, and necessity' of the Empire, but also for that 'of the Holy Empire of the German nation's members'.⁷⁴ This is one of the first known uses of the phrase 'the Holy (Roman) Empire of the German nation', which would be commonplace by Maximilian's reign, and its appearance in an alliance treaty reinforces the impression that associative activity was understood as a central component of imperial politics in the late fifteenth century, just as it had been in earlier periods.⁷⁵ The use of the vernacular term *deutsche Nation* (in all its *frühneuhochdeutsch* variants) was a very recent phenomenon in 1474. It seems to have surfaced in the 1460s, in vernacular documents pertaining to discussions about the defence and pacification of the Empire, especially vis-à-vis the Turks.⁷⁶ In this context it was clearly an importation from long-standing references to a *natio Germanical/Theutonica/Alamannica* in ecclesiastical Latin, terms which had reached broad audiences in the German lands via humanist

⁶⁹ *AEA*, ii, 911–12; *CDM*, iv, 170–3.

⁷⁰ Scott, *Economic Change*, pp. 47–8. On the Lower Union's later history see Chapter 5, p. 101; Chapter 6, p. 136.

⁷¹ *CDM*, iv, 171.

⁷² *Ibid.*, iv, 172.

⁷³ *Ibid.*, iv, 171–2; see Introduction, p. 12.

⁷⁴ *CDM*, iv, 171.

⁷⁵ See Chapter 7, p. 156.

⁷⁶ E.g. *RTA*, xxii, 251.

orators like Aeneas Silvius Piccolomini.⁷⁷ In the southern Empire, the perceived threat of Burgundy seems to have catalysed the extremely rapid diffusion of this language of the 'German nation', defined against a French/Romance—*welsch*—'other' embodied above all by Charles the Bold, 'the Turk of the West who shames Christendom' ('Türk im occident, der die cristenhait also schendt').⁷⁸ Already in the mid-1470s it was used liberally in letters, pamphlets, and chronicles. For instance, Duke Sigmund wrote to Count Palatine Friedrich a few days after allying with the Lower Union and Confederates, stating that he had 'signed up to a collective alliance . . . to the praise and honour of almighty God, the Holy Empire, and the German nation and for the assistance and furthering of the emperor's [1471] peace [of Regensburg] and the necessity of our land and peoples', and that the alliance would regain the lands he pledged to Charles in 1469—a legitimate undertaking, since the Burgundian duke had contravened the contracts of that year by bringing 'foreigners' into Alsace and the Black Forest.⁷⁹

This newly formulated 'national' conception of the Empire was a central feature of the downfall of the Burgundian administration on the Upper Rhine, in which the league of March/April 1474 played an instrumental role. The immediate pretext for the league's attack on the Burgundian regime came from within the pledged lands on 6–15 April, when the townspeople of Breisach, in partnership with some German soldiers formerly employed by Peter von Hagenbach, revolted against the Picard mercenaries he had stationed in their town and imprisoned Hagenbach himself. While support for the uprising was not universal throughout the pledged lands, the leaders of the anti-Burgundian coalition saw it as a perfect opportunity to intervene.⁸⁰ In keeping with their pro-'German', anti-Burgundian propaganda, they branded the captured Hagenbach a traitor and an agent of foreign tyranny, and obtained custody of the bailiff. Basel's executioner was deputed to extract confessions under torture, and Hagenbach was subjected to a show trial for murder, conspiracy, and treason. On 9 May 1474 he was beheaded in public in Breisach.⁸¹

Hagenbach's trial is an exceptional example of the extent to which associations could involve themselves in all areas of political and judicial activity. Rather than referring Hagenbach's case to an urban or princely court with competence in criminal justice, the leaders of the anti-Burgundian

⁷⁷ Hirschi, *Nationen*, pp. 124–74. See also Scales, *Identity*, *passim*.

⁷⁸ Sieber-Lehmann, *Burgunderkriege*, pp. 163–301. The 'Türk im occident' quotation is from a south German song composed in 1475—see *ibid.*, p. 251.

⁷⁹ ADBR C47/2.

⁸⁰ Sieber-Lehmann, *Burgunderkriege*, pp. 68–89.

⁸¹ *Ibid.*, pp. 89–94.

‘verainung’ took it upon themselves to try him jointly, ‘on behalf of all those who belonged to the league’.⁸² According to Johannes Knebel of Basel, the author of near-contemporaneous annals, twenty-seven to twenty-nine judges sat on the case, and most members of the anti-Burgundian alliance (with Sigmund represented by Austrian subject towns like Breisach and Freiburg) provided at least two of these each.⁸³ This associative approach has led to some confused and implausible interpretations of the nature and significance of Hagenbach’s trial. Scholars have suggested that it was a contradictory fusion of the procedures of the ‘traditional’ *Rechtstag* and the ‘modern’ inquisitorial hearing,⁸⁴ or even the first ever ‘war crimes’ trial, which supposedly prefigured the Nuremberg trials of 1945–6 because it involved multiple ‘sovereign’ powers delivering justice collectively.⁸⁵ In light of what we have seen of the associative political culture of this region in this period, it is clear that a more plausible reading of the trial can be achieved. While it was unusual for an association to hold a multilateral criminal trial (as opposed to the far more common method of arbitration according to *Minne* or *Recht*), it was not unheard of: for instance, we saw in Chapter 8 that in the 1370s a league of Alsatian powers tried and executed Hans Erbe and his followers as peace-breakers.⁸⁶ We have also seen that the *Hofgericht* of Rottweil occupied a grey area between criminal jurisdiction exercised in the name of the king/emperor and arbitral procedures undertaken by an association of elites in the Black Forest.⁸⁷ More generally, joint jurisdiction was no novelty for the intertwined powers of the southern Empire. We have seen many examples of co-rule and ‘common lordships’, and the temporary creation by the members of the anti-Burgundian league of a shared and multilateral authority to try Hagenbach fits comfortably within the same logic.⁸⁸

During and after Hagenbach’s imprisonment and trial, the allies worked to bring their anti-Burgundian project to fruition. They collected 80,000 fl. in Basel for the redemption of the pledged lands, and the sum was offered by Duke Sigmund’s herald to Charles the Bold in Luxembourg on 22 April 1474, whereupon the Burgundian duke denied the validity of the attempted transaction.⁸⁹ Nevertheless, Sigmund’s officers moved to reintegrate the pledged settlements into the Outer Austrian agglomeration, encountering no opposition. Encouraged by missives from Frederick III, the leaders of the ‘verainung’ then debated plans for pre-emptive strikes into Burgundian Franche-Comté, in part to safeguard the Württemberg-owned

⁸² SAC, p. 187. ⁸³ BC, ii, 85–6.

⁸⁴ See discussion in Sieber-Lehmann, *Burgunderkriege*, p. 90.

⁸⁵ Gordon, ‘Trial’, pp. 13–50. ⁸⁶ See Chapter 8, p. 162.

⁸⁷ See Chapter 2, pp. 53–4.

⁸⁸ See Chapter 4, p. 88; Chapter 8, pp. 162–9.

⁸⁹ SAC, p. 186.

border town of Montbéliard/Mömpelgard.⁹⁰ The Swiss Confederates were initially reluctant, but the deliberations gained new urgency when Stephan von Hagenbach, the late bailiff's brother, carried out a murderous raid into the Sundgau with several thousand Burgundian troops in the summer of 1474.⁹¹ Between July and October several more Alsatian imperial cities and the officers in charge of Montbéliard joined the anti-Burgundian coalition.⁹² On 12 August the members of the growing league signed a collective treaty of protection in the event of a Burgundian invasion of the Upper Rhine with Count Palatine Friedrich and Margrave Karl of Baden.⁹³ On 25 October a Bernese ambassador was sent to Charles, who was now besieging the city of Neuss on the Lower Rhine, in order to deliver an *Absagebrief* (feud-declaration) on the part of the Confederates and the Lower Union.⁹⁴ At the same time, troops were prepared for a joint army of the anti-Burgundian alliance, and captains—mostly drawn from the Austrian-leaning nobility of Alsace—were appointed.⁹⁵ In November 1474 the 18,000-strong coalition army marched to Héricourt on the frontier of Franche-Comté and, after a short siege and a resounding victory against a Burgundian relief force, captured the fortress.⁹⁶ Instructions for Sigmund's representatives at a *Tag* of the league in February 1475 show that discussions were held about how to divide the shared military costs and booty.⁹⁷ The 'verainung' reached its maximum extent in April 1475, when Duke René II of Lorraine—another enemy of Charles the Bold—became a member during a conference held in Colmar.⁹⁸

The remaining events of the Burgundian Wars, which culminated in the death of Charles the Bold, are well known, and will not be rehearsed in detail here.⁹⁹ Between July 1474 and May 1475 Charles used the bulk of his armies to besiege Neuss, ostensibly in support of his ally Archbishop Ruprecht of Cologne. The creation of a pan-imperial army led by Frederick III himself and a three-pronged French attack on Burgundy by Louis XI forced Charles to back down. In late 1475 and 1476 he turned his attention to invading Lorraine and gaining control of Savoy—a course of action which necessitated the removal of the Confederates from the duchy's northern possessions. Charles personally led an enormous Burgundian army into the Vaud and the Üchtland, where he suffered two crushing defeats at Grandson (2 March 1476) and Morat/Murten (22 June 1476) at the hands of Bern and its allies. In January 1477 he was killed by an army of Lorrainers and Swiss mercenaries while besieging Nancy. It is worth noting briefly that associative

⁹⁰ Sieber-Lehmann, *Burgunderkriege*, pp. 110–18.

⁹² *UBB*, viii, 371.

⁹⁵ *RUB*, v, 21–3.

⁹⁸ *AEA*, ii, 537.

⁹³ TLA Sigm./14.1118.

⁹⁶ *Ibid.*, v, 22–3.

⁹⁹ See Vaughan, *Charles*, chs 9–10.

⁹¹ *BC*, ii, 103–7.

⁹⁴ *AEA*, ii, 515.

⁹⁷ TLA Sigm./04b.55.295.

dynamics continued to play a role in these large-scale confrontations. For instance, when messengers arrived from besieged Neuss to implore those in attendance at the 1474 imperial diet at Augsburg to consider their 'necessity' ('Nothdurfft'), lest they be 'torn away from the Empire', they stated in the customary terms of associative interaction that they had come 'to call upon' ('aufmahnen') the powers of the Empire for 'assistance' ('hülff') against Charles the Bold.¹⁰⁰ Frederick III responded by writing to key members of the Empire requesting 'urgent assistance', and leaving the details of the army that he hoped would be assembled to be worked out collectively by the participating powers at a *Tag* in Würzburg.¹⁰¹ As in Sigismund's pan-imperial war of 1415, and indeed Maximilian's 1499 *Reichskrieg* against the Swiss Confederates, Frederick's military response relied on the mechanisms of alliance-making and network-based feuding in order to mobilize the powers of the Empire against Charles the Bold.¹⁰² The call for help spread along the vectors of the alliances and *Tags* that brought the cities and princes of the Empire into contact with one another in 1474–5, and in response they promised 'assistance, counsel, and succour'.¹⁰³ At a *Tag* in Mainz in November 1474 Louis XI sealed an alliance with Frederick and the assembled representatives of the Empire-wide coalition against Burgundy, which was described revealingly by Margrave Albrecht of Brandenburg as 'the "eynung" which the emperor, the electors, and other princes and lords entered into ... against Burgundy'.¹⁰⁴ In January 1475 Frederick sent an *Absagebrief* to Charles the Bold on behalf of all members of the Empire.¹⁰⁵ Moreover, the defeats inflicted on Charles in 1476 were not only the work of the 'Swiss', even if Grandson and Morat have mostly been studied within the context of self-congratulatory nineteenth- and twentieth-century Swiss historiography.¹⁰⁶ The alliances of March/April 1474 were valid for ten years, and had given rise to what was by 1476 being called the 'great league' ('grosse[r] bund').¹⁰⁷ The Confederates therefore called upon their allies at the time of Charles the Bold's incursion in the Vaud. The members of the Lower Union responded by sending troops which formed part of the force that destroyed Charles's army in the summer of 1476.¹⁰⁸ The anti-Burgundian coalition remained militarily active from mid-1474 right up until January 1477.¹⁰⁹

¹⁰⁰ *RTT*, ii, 648–9. ¹⁰¹ *Ibid.*, ii, 649–50, 660–1.

¹⁰² See Chapter 3, p. 63; Chapter 10, pp. 204–5.

¹⁰³ TLA Sigm./04a.171.1. See also the correspondence printed in Sieber-Lehmann, *Burgunderkriege*, pp. 418–30.

¹⁰⁴ *PCKAA*, i, 751. ¹⁰⁵ *RI*, xiii.4, no. 671.

¹⁰⁶ E.g. Schaufelberger, *Kriegführung*. ¹⁰⁷ *BC*, iii, 44.

¹⁰⁸ See e.g. the record of Mulhouse's contingent at Morat in AMM I/2154.

¹⁰⁹ The allies' actions are narrated in *BC*, iii, 3–115.

Thus, the significance of the Burgundian Wars is not limited to their role in precipitating the downfall of the last Valois duke of Burgundy and the division of his inheritance between Louis XI and Maximilian. At their core, these conflicts were yet another manifestation of the associative modes of interaction between powers in the Holy Roman Empire. The associative political culture of Europe's German-speaking elites entailed more decentralized and multilateral forms of government than those exercised in parts of the French and Burgundian polities, but the Empire's political system could nonetheless yield impressive results, even in the face of the consolidated political and military resources of Charles the Bold. The achievements of the 'great league' of 1474 in raising huge sums of money and organizing effective campaigns attest to this. This is not to say that the Empire's political culture was somehow superior. Observations by outsiders that Alsace became a safer place for travellers under Charles underscore the merits, as well as the drawbacks, of Burgundian approaches to government.¹¹⁰ It is not clear whether either administrative system had better or worse effects on the lives of the unfree or low-status majority living in the lands pledged to Burgundy in 1469, since the perspectives that survive were all written by or for political elites of one affiliation or another. Rather, the points of contrast between the political culture of Charles and his officers and that of imperial actors highlight the enduring importance—indeed, the unavoidability—of associative structures, dynamics, and ideologies in the fragmented German-speaking lands. Even in the 1460s–70s, the beginning of Morav's age of consolidation, constant multilateral negotiation between elites within the framework of a shared set of conventions and discourses remained the fundament of imperial politics. Throughout these years, the princes and cities of the Empire continued to forge alliances and leagues as prolifically as ever, and arbitrational or negotiatory *Tage*—not least the conferences dignified with the label of *Reichstage* by subsequent historiography—only increased in frequency.¹¹¹ Furthermore, the intensification of imperial consolidation (or '*Reichsreform*') between the 1480s and 1520s built on the associative tendencies of the 1460s–70s. The issuing of new peace-ordinances and the development of an increasingly close, if tension-ridden, interplay between the Roman monarchs and the imperial estates went hand-in-hand with the creation and maintenance of the Swabian League, which was modelled on coalitions like the 'great league' and other parallel associations in the 1470s. The Lower Union, another associative instrument of contact and

¹¹⁰ See report quoted in Vaughan, *Charles*, p. 269.

¹¹¹ Some examples of alliances in the decade 1467–77 beyond the Upper Rhine are HSA A602/5135, 5139–4, 5211–13, 5221–6.

consolidation until the 1490s, when it was joined by King Maximilian, was a direct product of the events of the 1470s.¹¹² The increasingly 'national' dimension of the discourses about peace, the common good, and the Empire which pervaded the treaties and correspondence of German-speaking elites in the late fifteenth and sixteenth centuries owed their rapid development and diffusion to the conjunctures of the Burgundian Wars. As we shall see in Chapter 12, the new layers and accelerating processes of political life after 1477 were additions to and reconfigurations of a fundamentally associative framework, which persisted into the early decades of the sixteenth century.

¹¹² See Chapter 5, p. 101; Chapter 6, p. 136.

12

The Age of Imperial Reform, c. 1486–1521

MAXIMILIAN AND IMPERIAL REFORM: NARRATIVES OF CHANGE AND TRANSFORMATION *CIRCA* 1500

Historians of the Holy Roman Empire have invariably presented the reign of King and Emperor Maximilian (1486–1519)—the proverbial ‘last knight’, a ruler ‘at the turning point of modernity’ and ‘in an age of change and upheaval’—as a watershed.¹ This partly reflects the coincidence of Maximilian’s lifespan with the accepted transition from the medieval to the early modern period around the year 1500, but it also relates to the perception that the Empire underwent fundamental structural and constitutional reforms in these same decades. It was during these years that a series of new and apparently permanent institutions developed within the Empire, giving it clearer definition and internal stratification. In particular, the 1495 diet of Worms and the 1500 diet of Augsburg are perceived as pivotal moments in the long-term history of the Empire, since it was on these occasions that ordinances were passed to create an array of institutions. These included what historians have subsequently dubbed the ‘eternal public peace’ (*Ewiger Landfriede*), the ‘imperial chamber court’ (*Reichskammergericht*), the ‘imperial council’ or ‘governing body’ (*Reichsregiment*), and the ‘imperial circles’ (*Reichskreise*).² These reforms unfolded in the context of two developments: first, increasing contact between the various imperial powers; and, second, the formalization of the relationship between the monarchy and the imperially immediate elites—or ‘estates’ (*Stände*)—of the German lands.³ Therefore, in the *Verfassungsgeschichte* tradition which has so shaped modern interpretations of German history,

¹ Wiesflecker, *Maximilian*; Hollegger, *Maximilian*; Schilling, *Luther*.

² Whaley, *Empire*, i, 25; Wilson, *Empire*, pp. 735–6; Brady, *Histories*, pp. 107–29.

³ Moraw, *Verfassung*, pp. 416–21.

the reign of Maximilian and its aftermath functions as a destiny-laden turning point, which set the Holy Roman Empire on an irreversible path towards its early modern form as a dualistic estate-based (*ständisch*) polity, with all the implications this had for the prospects of German nation-statehood.⁴

The earliest historians to engage with this topic, who coined and popularized the notion of 'imperial reform' (*Reichsreform*), judged it as a well-intentioned partial failure. For Leopold von Ranke and Erich Molitor, imperial reform was a missed opportunity: an attempt to impose nation-statehood on the Empire from above, inspired by 'patriotic' reform-minded polemicists, which foundered on the particularistic ambitions of the monarchy and the princes, but nevertheless engendered substantial constitutional shifts.⁵ Heinz Angermeier took a less top-down view in his 1984 study of *Reichsreform*, but also framed the issue in terms of the quest for statehood. For Angermeier, the reformist initiatives of this period were the product of a dialectic between the Empire's un-state-like constitution and the state-forming ambitions of its constituent authorities.⁶ More recently, and by contrast, Georg Schmidt has argued forcefully in favour of interpreting the Empire's early modern development as a kind of state formation, proposing that it was the reforms of 1495 which 'directed the Holy Roman Empire of the German Nation onto the path towards statehood'.⁷

Most scholarship in the last three decades has adopted a more cautious perspective, rejecting the explicit link between *Reichsreform* and state formation. Peter Moraw and Barbara Stollberg-Rilinger have presented the accelerated change and consolidation within the Empire around 1495/1500 as pragmatic responses to intensified consolidation and interconnection within the Empire, which were in turn the products of wider forces (greater military and fiscal demands and demographic growth, among others). While the reforms of this period ushered in a new 'constitutional' arrangement, in which power was formally divided between the monarchy and the estates, their long-term effects were unintended, and their implementation was presented as a restoration of (imagined) good old customs and order.⁸ The notion that structural change was founded upon a unified reform programme contained in fifteenth-century treatises and polemics has also been called into question. It is increasingly clear that these texts—from

⁴ Prietzel, *Reich*, pp. 142–4.

⁵ Ranke, *Deutsche Geschichte*, i; Molitor, *Reichsreformbestrebungen*.

⁶ Angermeier, *Reichsreform*, esp. pp. 330–4.

⁷ Schmidt, *Geschichte des Alten Reiches*, p. 40.

⁸ Moraw, 'Reichstag', pp. 25–37; Stollberg-Rilinger, *Reich*, pp. 40–1.

Nicholas of Cusa's *De concordantia catholica* to the so-called Upper Rhenish revolutionary's 'Little book of one-hundred chapters' (*Buchli der hundert Capitel*)—were highly disparate, and barely formed a loosely related 'reformist' corpus, let alone a blueprint for a reinvigorated Romano-German Empire.⁹ Nevertheless, even in this more nuanced view of the causes and consequences of the imperial reforms, the decades around 1500 serve as a narrative caesura. However inadvertently and hesitantly they may have gone about it, the monarchs and the imperial estates are understood to have unleashed a 'constitutional movement' (*Verfassungsbewegung*) which gave rise to a fundamentally altered 'constitutional state of affairs' (*Verfassungszustand*).¹⁰

The associative structures and dynamics of political life in Upper Germany identified in this book have implications for the developments in the age of imperial reform—implications which invite a reassessment of the narratives of wide-ranging constitutional transformation at the turn of the sixteenth century. To recapitulate, throughout the fourteenth and fifteenth centuries the fragmented authorities in the southern Empire regulated their relationships with one another within an array of multilateral treaties. The associations to which these treaties gave rise were supposed to function as communities of mutual assistance and adjudication in military and judicial matters. Assistance was conceived as mutual aid, counsel, and defence: 'hilff und bystand', '[uns einander] beräten und beholfen [zu sein]'.¹¹ The adjudicatory stipulations of association treaties committed members to resolving one another's disputes according to agreed principles of mediation, whether through ad hoc arbitration committees or specified existing judicial resorts.¹² In all these matters, decisions were supposed to be made by majority, generally within temporary councils (*Tage, Räte*) composed of representatives supplied by all or most association members in proportion to their relative size and influence. We shall see that the evidence of the imperial estates' activities between the 1480s and the 1520s displays constant reference to such associative concepts and practices. Examining this period against the background of the Empire's associative political culture reveals substantial continuities, rather than dramatic ruptures, with the preceding century and a half, and provides a better contextualized and less teleological perspective on the imperial reforms.

⁹ Lauterbach, *Reformgedanke*; Märtl, *Reformgedanke*.

¹⁰ Krieger, *Reichsreform*, p. 49.

¹¹ See Chapter 6, pp. 124–5.

¹² See Chapter 6, pp. 130–9.

BETWEEN CUSTOM AND INNOVATION: CONTEMPORARY CONCEPTIONS OF IMPERIAL REFORM

Between 1486 and 1521, members of the Holy Roman Empire convened over fifty imperial diets (*königlich/kaiserliche Tage, Reichstage*), mostly in Upper German cities like Mainz, Worms, Constance, Augsburg, and Nuremberg.¹³ This intense pan-imperial interaction was almost unprecedented, and matched only by the spate of activity between the Council of Constance and the early years of Frederick III's reign.¹⁴ What did the imperial electors, princes, nobles, and urban representatives think they were doing as they negotiated and drafted new ordinances at these diets, whether in concert with or in opposition to Maximilian and Charles V? Framing the question in this way invites us to consider 'imperial reform' as a series of developments arising from contemporary Upper German political culture, rather than interpreting it in hindsight as an inevitable phase in the creation of the Empire's peculiar early modern constitution. We have seen that recent historiography has already begun to address this question, acknowledging that, whatever the long-term effects of these reforms, contemporaries claimed that their goal was the restoration of an idealized order within a stable and revitalized Holy Roman Empire of the German Nation. The discursive leitmotifs for this agenda were 'peace' (*Friede*) and 'justice' or 'right' (*Recht*).¹⁵ Again and again, the reform-minded imperial estates asserted that their aim was—as the princely authors of a memorandum at the 1507 diet of Constance put it—to negotiate the maintenance of peace and justice in the Empire', or—in the words of an ordinance of the 1521 diet of Worms—to address 'the affairs of the Holy Empire: justice, peace, and the accomplishment and management of both of these'.¹⁶

The concepts of *Friede* and *Recht* had myriad connotations, not least in relation to the ideal of good government within a Romano-Christian *imperium*. By the late fifteenth century, some princely and urban authorities within the German lands were becoming interested in specific applications of these malleable ideas in the form of aspirational regulations for public behaviour (*Polizeiordnungen*).¹⁷ It also seems plausible that, as his modern biographers have argued, Maximilian conceived of what we call 'imperial reform' as a means of pacifying the Empire in order to implement

¹³ The most detailed narrative overview is Wiesflecker, *Maximilian*, i–iv.

¹⁴ Diets covered in *RTA*, vii–xvii.

¹⁶ *RTAMR*, ix, 358; *RTAJR*, ii, 177.

¹⁵ Annas, 'Reichsreform', i, 223–54.

¹⁷ Schmelzeisen, 'Polizeiordnungen'.

fiscal and military structures capable of supporting his expensive political ambitions on the European stage. The sense that Maximilian, at least, understood the imposition of peace and order as something akin to a self-conscious 'state-forming' process is suggested by the centralizing administrative reforms he sought to impose in his hereditary lands, inspired by the governmental institutions he encountered in Burgundy.¹⁸ However, there was a more customary and widespread level of political activity in the German lands at which these ideas had long found concrete expression: associations and other multilateral structures. Most leagues and alliances of the fourteenth and fifteenth centuries addressed the domains of *Friede* and *Recht* in some way, appealing to peace and the common good, and committing to accepted judicial and para-judicial means of resolving disputes in order to uphold the rights and privileges of all their members. Furthermore, the long-standing governmental ideal of *pax generalis* or *Landfriede* manifested itself in practice within regional and Empire-wide associations, which were the product of, or at least existed in a mutually reinforcing relationship with, imperial ordinances steeped in the rhetoric of peace and justice.¹⁹

As vehicles for the implementation of *Friede* and *Recht*, associative frameworks remained ubiquitous at the turn of the sixteenth century. While many emerging 'territories' in the Empire were gaining greater definition around 1500 than they had enjoyed a century or so earlier, alliances and leagues were still a favoured means of collective action. In most of Upper Germany, regional dynamics of feuding and arbitration within shifting coalitions that spanned and cut across still-fragmented lordships continued to shape political life. Despite the peace-ordinances of 1495, this period saw a series of exceptionally destructive multi-party conflicts: the Swiss/Swabian War of 1499, the war of succession over the lordships of Bavaria-Landshut in 1503–5, the feuds of Franz von Sickingen and Götz von Berlichingen in 1515–19, and the war of Duke Ulrich of Württemberg against the Swabian League in 1518–19, to name only the most prominent.²⁰ The actors embroiled in these wars remained enmeshed in webs of alliances, which were still the most readily available means of securing military assistance and networks of well-disposed mediators. The sheer volume of alliance treaties that survive from the early sixteenth century, attested by research by Gabriele Haug-Moritz and Guido Komatsu, underlines the ongoing appeal and necessity of these customary formats.²¹

¹⁸ Wiesflecker, *Maximilian*, i, 403–5; *ibid.*, ii, 175–201.

¹⁹ See Chapter 5, pp. 102–4; Chapter 7, pp. 145–50; Chapter 9, pp. 195–6; Chapter 11, p. 226.

²⁰ Whaley, *Empire*, i, chs 6, 13.

²¹ Haug-Moritz, 'Föderalismus'; Komatsu, 'Landfriedensbünde'.

Associations remained the most broadly based sites of collective political activity at which regional actors appealed to the imperatives of preserving the peace and achieving just conflict resolution, however tendentially these concepts might have been interpreted by the various factions implicated in high-stakes feuds and wars. We have seen this already in the case of the Swabian League. Even when they acted autonomously or against the wishes of Frederick III and Maximilian, members of the League laboriously invoked their objective of defending peace and justice in the Empire.²² The League was by no means unique in this regard. Even the free knights (*Ritterschaft*) of the Upper Rhine, who were labelled as relentless troublemakers and peace-breakers by both the princes and the cities in these years, shared in the language of peace and justice which characterized both associative and reformist discourse in this period.²³ In the founding treaty of a six-year alliance ('Gesellschafft oder Vereinigung') of over 600 knights instigated by Franz von Sickingen at a meeting in Landau in 1522, the knightly association was proclaimed as being 'for the honour and glory of God, the enhancement of brotherly love and the common good, and also the promotion of peace and justice' and 'for the better-founded and improved management of peace, justice, and the common good'.²⁴

However sincere or insincere these appeals to *Friede* and *Recht* may have been, the overlap between the rallying cry of imperial reform and the favoured formulae of association members is significant. It suggests that the actors shaping the agendas of the frequent imperial diets in these years understood themselves to be implementing something akin to the idealized mission of a customary association. To put it another way, the elites of the Holy Roman Empire—all the estates ['stend'] and members ['glider'] of the 'reich', as they called themselves—seem to have understood their polity as being similar in structure and purpose to the myriad subsidiary associations within it.²⁵ The litanies of 'reformist' complaints about the decline and oppression of the Empire and the German Nation which filled the correspondence and ordinances of the estates during Maximilian's reign had a long history, not only in legislation issued at fifteenth-century assemblies, but also in the pessimistic tropes about growing disorder that justified the existence of many associations in the same period.²⁶ What historians call 'imperial reform', namely the professed aim of restoring peace, justice, and order to the Empire through collective action,

²² Carl, *Bund*, pp. 365–422.

²³ Scholzen, *Sickingen*.

²⁴ TRA, pp. 4, 6.

²⁵ RTAMR, v, 1514 (from a report on the 1495 diet).

²⁶ For examples of 'reformist' complaint, see RA, ii, 136; *Reichsrespondenz*, ed. Janssen, ii, 929–30. On these tropes in fifteenth-century legislation and treaties, see Chapter 7, pp. 148–9.

was therefore already a culturally scripted objective of leagues, alliances, *Landfrieden*-associations, and knightly societies. Within such formations, 'peace' and 'justice' were translated into practical obligations: the avoidance of internal violence, mutual aid against aggressors and peace-breakers, the resolution of disputes according to agreed pathways, and decision-making processes in matters of assistance and adjudication which took account of all concerned parties in proportion to their respective size and influence. Insofar as the imperial estates were seeking to accomplish something new in the age of Maximilian, they were transposing associative methods and goals from temporary or regionally bounded formats to the framework of the Holy Roman Empire itself, and institutionalizing them at this 'central' level. It is not surprising, therefore, that—as we shall now see—we can find many similarities in concept and structure between late medieval associations and the institutions established by the legislation promulgated in the decades around 1500.

MUTUAL ASSISTANCE AT THE IMPERIAL LEVEL: *LANDFRIEDEN, KREISE, ANSCHLÄGE*

Under the overarching rubric of the management of peace and justice, the estates of the Holy Roman Empire launched several institutional initiatives between 1486 and 1521 through a series of treaties and ordinances. As the authors of these documents themselves frequently specified, these new institutions and practices were intended to support and reinforce one another. For instance, the famous *Landfriede*-ordinance issued at Worms in 1495 was supposed to be enforced in part through the prosecution of peace-breakers in the cameral court that was planned at the same diet.²⁷ Future decisions about how to continue administering the matters covered by the *Landfriede* were to be resolved according to a series of measures contained in a treaty concerning 'the management of peace and justice' (*Handhabung Friedens und Rechts*), which was also promulgated at the 1495 diet.²⁸ Furthermore, this legislation was cumulative: its authors frequently referred back to previous iterations of the same initiative, and incorporated aspects of existing structures into new ones. For instance, the imperial council (*Reichsregiment*) created in 1500 envisaged six regional circles (*Kreise*) within the Empire from which some of its members might be drawn.²⁹ At the diet of Trier in 1512, an amended version of the *Landfrieden*-ordinances of 1486 and 1495 planned for peace-enforcement

²⁷ *RTAMR*, v, 367.

²⁸ *Ibid.*, v, 449–64.

²⁹ *RA*, ii, 58.

within ten circles, six of which were explicitly drawn from the council ordinance of 1500. The authors of the 1512 legislation did not even re-transcribe the words of the 1500 document, but simply referred the reader or hearer to the definitions of the six original *Kreise* contained within it.³⁰ Clearly, the initiatives known today as the 'imperial reforms' were not a list of discrete institutions intended to clarify and solidify the Empire's constitution, as historians have tended to depict them, but rather an ever-evolving and interrelated series of closely contextualized commitments, made within the framework of sequential treaties.

In view of the highly contingent and iterative character of the reforms, it is somewhat artificial to enumerate and describe them individually. While this is unavoidable to some extent, what follows is an attempt to examine the ordinances of 1486–1521 in terms of their shared structures and stipulations: the forms of interaction they required, the ways in which they defined and sub-divided the imperial community, and the procedures and formats they envisioned for the new institutions to which they gave rise. Revealingly, these map onto the two entangled spheres of associative activity in Upper Germany: assistance and adjudication. On the one hand, many of the peace-keeping and finance-raising initiatives of these years relied upon ad hoc methods of mutual aid, without mediating this aid through any 'central' structures. On the other hand, the new institutions the estates did create frequently operated, either in theory or in practice, in much the same way as customary assemblies, courts, and other kinds of *Tage* in fourteenth- and fifteenth-century Upper Germany.

To take the assistance-based features of imperial reform first, it is striking that the most enduring measures proposed between the 1480s and 1520s applied methods at the imperial level which had long been employed within regional and local associations. This is clearest in the case of the *Landfrieden*. Several Empire-wide peace-ordinances were passed in this period: a 'common, Christian peace throughout the whole Empire of the German nation' promulgated at Frankfurt in 1486, which aspired to forbid all feuds and wars for ten years;³¹ a 'friden' passed at Worms in 1495, which repeated the 1486 ordinance's ban on feuds, notionally for eternity ('from the time of issue onwards'), hence the title of 'eternal public peace' (*Ewiger Landfriede*) it was given in later centuries;³² and multiple reissues of the 1495 ordinance with proposed additions and emendations, as at Freiburg in 1498 and Augsburg in 1500, culminating in the *Landfriede* legislation passed at Charles V's first diet at Worms in 1521.³³ We have seen that there was a long tradition of interrelationship

³⁰ Ibid., ii, 138.

³¹ *RTAMR*, i, 384–5.

³² Ibid., v, 363.

³³ Ibid., vi, 718–46; *RA*, ii, 62–7; *RTAJR*, ii, 317–32.

between imperial ordinances, sometimes called *Landfrieden*, and association treaties to preserve the peace in the localities, which were also sometimes called *Landfrieden*. The *Reichslandfriede* of 1389 was itself a huge league treaty encompassing most of Upper Germany, while the 1471 ordinance of Regensburg was taken up by local leagues like the Lower Union.³⁴ A similar dynamic persisted during Maximilian's reign. For example, within months of the promulgation of the 1495 'gemeynen landfriden' of Worms, its main instigator, the reform-minded Archbishop Berthold of Mainz, was drafting short-term alliances with Strasbourg, the margrave of Brandenburg, and the duke of Württemberg in which the allies committed to assisting one another to uphold the peace-ordinance.³⁵ Like the 'eternal' treaties that united the core Swiss Confederates in the 1350s, the *Ewiger Landfriede* was the product, rather than the cause, of a sprawling and horizontally ordered political configuration, and it, too, could only operate as a reference point within a nexus of evolving contractual relationships.

The connection between the reformist *Landfrieden* and associative conventions went beyond the use of regional alliances to uphold the imperial legislation. The ordinances themselves took the form of treaties sealed by the monarch and representatives of all the estates present at the relevant diets. They also borrowed extensively from the concepts of mutual responsibility articulated in alliance and league treaties throughout the later middle ages. In the peace-ordinances and the addenda to them, the imperial estates repeatedly affirmed their obligation to offer 'help, counsel, and assistance' against attackers and peace-breakers, in the traditional associative formula ('hülff, rathe und beistand').³⁶ At their core, these documents aimed to transform the Holy Roman Empire as a whole into an association of mutual defence. An urban messenger summarized this central stipulation of the 1495 ordinance in customary terms: 'whomever within the German Nation or belonging to the Empire might be warred against... to them should be extended, with carefully considered authority and full might, help, comfort, and assistance against those attacking them'.³⁷ Borrowing almost word-for-word from the language of fifteenth-century alliance treaties, the peace-ordinance of 1495 and its successors warned members of the Empire that 'nobody should offer such perpetrators [feud-enemies and peace-breakers] assistance or support, or knowingly or secretly accommodate or house them, provide them with food or drink, or maintain or suffer

³⁴ See Chapter 9, p. 196; Chapter 11, p. 226.

³⁵ *RTAMR*, v, 1184–9.

³⁶ 1521 formula in *RTAJR*, ii, 332. See also e.g. *RTAMR*, i, 316, 376; *RA*, ii, 138.

³⁷ *RTAMR*, v, 1419.

them'.³⁸ The 1521 *Landfriede* stipulated that those on the receiving end of feuds or wars were to call formally ('ermane[n]') upon the other members of the Empire to assist them, as was customary within alliances and leagues, and these were then obliged to assist the distressed party 'as if it were their own affair'.³⁹ In practice, when political actors did this—as the city of Worms did when Franz von Sickingen feuded against it in 1517—they deployed the traditional formula which decried the hostile party as acting 'against God, honour, and justice'.⁴⁰ As in many of the larger late medieval leagues, members of the Empire were required by the ancillary *Handhabung Friedens und Rechts* legislation of 1495 to respond to hostilities by forming a representative assembly which would discuss appropriate counter-measures.⁴¹ Later proposals that the *Reichsregiment*, which was itself a representative council drawn from the Empire's members, take over this role in directing peace-enforcement was an emanation of that same tradition.⁴²

Between 1500 and 1512, ten sub-divisions of the German lands within the Empire were proposed by the estates for several purposes, including the arrangement of collective counter-measures against violators of the peace-ordinances. Many of these 'circles' ('circkel' or 'kreysen', later dubbed *Reichskreise*⁴³) were not so much administrative districts cobbled together from neighbouring 'territories', as they have sometimes been portrayed,⁴⁴ but rather horizontal unions of elites based within the boundaries of certain dioceses, loose principalities, or leagues, which were supposed to enable the collective implementation of imperial initiatives at the regional level. The 'third circle' proposed in 1500, for instance, included all authorities in a loosely defined zone extending from the dioceses of Chur, through those of Constance and Augsburg, to the approximate spheres of the margraves of Baden and the dukes of Württemberg, as well as all members of the Society of St George's Shield, the *Ritterschaft* of the Hegau, and 'all and each of the prelates, counts, lords, and imperial cities in the "Landt" of Swabia'.⁴⁵ That this 'kreyß' closely matched the contemporaneous composition of the Swabian League is surely no coincidence. In the legislation of 1521, the elites within each circle were labelled 'genossen

³⁸ 'nyemand solichen tetern... beystand oder furschub tun, auch sy wissentlich oder geuerlich nit herbergen, behausen, etzen oder trenken, enthalten oder gedulden'. *RTAMR*, v, 363. Compare with a similar clause in the 1469 alliance of the margrave of Baden and a knightly society: 'kain tail des andern offenn vinde... nit husen, halten, essen, tringken, noch gelaite geben, noch Inen hilf, bystand, zuschub oder underslouf tun'. GLA 46/767. Compare also with the 1488 Swabian League wording in Chapter 6, pp. 125–6.

³⁹ *RTAJR*, ii, 320.

⁴⁰ *Reichsrespondenz*, ed. Janssen, ii, 913. On this formula see Chapter 3, p. 64.

⁴¹ *RTAMR*, v, 451–3.

⁴² *RA*, ii, 64.

⁴³ *RTAMR*, ix, 426; *RA*, ii, 138.

⁴⁴ Stollberg-Rilinger, *Reich*, p. 49.

⁴⁵ *RA*, ii, 58.

oder gleichen'—'allies/associates or equals'.⁴⁶ In any case, the way the *Kreise* worked for peace-enforcement purposes was very similar to how leagues and alliances stipulated mutual assistance. The 1512 addenda to the *Landfriede* ordered the members of each circle to select military captains and deputies ('Hauptleut und ihre Zugeordnete der Circkel') from among themselves to fight against aggressors and peace-breakers, to seek to enforce any penalties imposed upon them by the cameral court, and to call upon their counterparts in nearby circles in the event that the conflict escalated to unmanageable proportions.⁴⁷ This organization displays clear parallels with the component groups of large associations like the Society of St George's Shield, which also consisted of regional divisions with their own 'hauptleut'.⁴⁸ Considering that the other main role of the circles was to function as constituencies within the German lands from which prominent elites could be recruited to serve in proportional numbers as representatives in the cameral court and imperial council, it seems that the *Kreise* were understood by contemporaries as subsidiary instantiations of a pan-imperial association. According to the *Landfrieden*-ordinances, members of the Empire had associative obligations towards one another, but, given the difficulty of implementing these on such a large scale, the obligations were delegated to sub-units within the imperial community.

The military and fiscal demands of Maximilian and Charles V for their wars against the kings of Hungary and France, Venice, and the Ottomans were met by the estates through the employment of similarly associative structures. It is true that the monarchs occasionally persuaded the estates to attempt genuinely new means of raising revenues through the streamlined and semi-centralized collection of taxes. The 'common penny' of 1495 and the proposed fiscal campaigns of 1512, 1518, and 1521 all involved per-head, per-parish, or per-district levies which were to be channelled through a central body staffed by the estates, though in practice compliance with these schemes was extremely low, and the requested sums were never collected.⁴⁹ Maximilian and Charles enjoyed more enthusiastic and realistic cooperation on the part of the estates when they consented to customary *Anschläge*: the ad hoc provision of 'urgent assistance' (*Eilende Hilfe*) in the form of funding and troops by every autonomous actor and entity within the Empire. Each provided assistance in proportion to their means, and the quantities of troops or funds were enumerated within lists (sometimes called *Matrikeln*) of horizontally related groupings according to socio-political estate (electors, princes, bishops, counts, lords, abbots,

⁴⁶ *RTAJR*, ii, 229.⁴⁷ *RA*, ii, 138.⁴⁸ See Chapter 5, pp. 114–16.⁴⁹ *RA*, ii, 147, 170; *Reichsrespondenz*, ed. Janssen, ii, 894; Lanzinner, 'Gemeiner Pfennig'.

imperial cities, communes, and so on). Thus, in the *Anschlag* of 1486 for the war against Matthias Corvinus, Duke Sigmund of Austria-Tyrol offered 400 mounted soldiers and 1,000 infantry, while the impoverished lords of Rheineck promised a mere two horsemen.⁵⁰ In the 1507 *Anschlag* for Maximilian's planned expedition to Rome, each elector promised 245 soldiers, while the diminutive imperial city of Rosheim committed to providing seven.⁵¹ Similarly, the electors each contributed 600 fl. to the coronation expedition of Charles V and the maintenance of the cameral court in the *Anschlag* of 1521, compared with 6 fl. provided by the lords of Geroldseck.⁵² Though they differed radically in size and status, the constituent authorities within the Holy Roman Empire were conceived as a lateral community of powers, each contributing in proportion to its means, in the context of mutual assistance at the imperial level. This enumerative and proportional conception of the obligations of the imperial community can be traced back to 1422, the date of the first imperial *Matrikel* (or "Anslag" for the ongoing war in Bohemia).⁵³ Within the larger Upper German associations, we have seen that it had much deeper and wider origins. Many leagues of the late fourteenth century, for instance, habitually stipulated the precise numbers of troops or regiments ('glefen') to be supplied by every member, in accordance with their wealth and population.⁵⁴ Durable associations like the Society of St George's Shield had long relied on ad hoc finance raised through individual contributions by members of its sub-divisions.⁵⁵ In favouring *Anschläge* over more systematic and sustainable schemes for raising troops and funds, the estates were simply applying the familiar methods of mutual assistance within associations at the imperial level.

LAYERS OF ADJUDICATION AND NEGOTIATION: *REICHSTAG, REICHSREGIMENT, REICHSKAMMERGERICHT*

The Holy Roman Empire was a polycentric entity, within which the activity that animated the *Reich* as a functioning polity consisted of direct horizontal interactions between its leading members. An overarching governmental framework through which these interactions could be channelled never fully developed, although the court of the kings and emperors

⁵⁰ *RTAMR*, i, 367, 370.

⁵¹ *Ibid.*, ix, 541, 550.

⁵² *RTAJR*, ii, 427, 432.

⁵³ *RTA*, viii, 156–65.

⁵⁴ See Chapter 6, pp. 127–8.

⁵⁵ See Chapter 5, pp. 115–16.

of the Romans periodically functioned as a focal point for political life in the fourteenth to sixteenth centuries. We have seen that, among the autonomous Upper German elites, collective decision-making, conflict resolution, and the administration of justice generally took place within jointly appointed committees, councils, courts, or diets, typically called *Tage* or *Räte*. The conclusions or judgements of the representatives or arbitrators present at such bodies were recorded in *Abschiede*: records, outcomes, or closing decisions.⁵⁶ In the course of the frequent and intense contact between the estates between the 1480s and 1520s, these customary formats of adjudication and negotiation became institutionalized and acquired a semblance of regularity or permanence.

In the case of the diets, this process was already underway before Maximilian's reign. At certain points in the fourteenth and fifteenth centuries, it had already become an accepted norm for matters of collective concern within the Empire to be discussed by German princes, nobles, and cities in conjunction with the monarch or his representatives. The fora for these discussions shared the name of arbitral committees or assemblies within leagues: *Tage*. Because, until the early fifteenth century, these meetings were generally arranged by the monarch and held at his peripatetic court, historians have dubbed them *Hoftage* (a neologism—contemporary sources referred simply to *Tage*).⁵⁷ The crises of the 1420s highlighted the importance of such gatherings as a means of tackling the many challenges facing the imperial elites collectively, and these 'gemeinen tag[e]', as they were sometimes called by contemporaries, were increasingly held at the behest of the Rhenish electors and other Upper German authorities, with only a veneer of monarchical involvement or approval.⁵⁸ By the 1470s and 1480s Frederick III and Maximilian were seeking to harness this means of assembling the leading actors in the Empire to garner support for their wars. For their part, the estates came to view these *Tage* as a regular opportunity to discuss the affairs of the Empire—above all, the management of peace and justice within it—in detail.⁵⁹ This gradually and organically came to be reflected in the nomenclature of these assemblies, in a manner which signalled their special relevance to the entire imperial community. Alongside the labels 'tag' or 'königlich [royal] tag', contemporaries occasionally referred to the 1495 diet of Worms as the 'gemeinen Reichstag', and by the 1520s any given imperial diet was almost exclusively called a *Reichstag*.⁶⁰ Only very recently have historians taken this

⁵⁶ See Chapter 1, p. 30; Chapter 7, p. 144.

⁵⁷ Annas, *Reichsversammlungen*, i, 73–110.

⁵⁸ Ibid., i, 110–22. Wording from *RTA*, xvi, 110.

⁵⁹ Annas, *Reichsversammlungen*, i, 419–36.

⁶⁰ *RA*, ii, 38; *RTAJR*, ii, 156.

developing terminology, and the gradual and fitful institutionalization it manifests, into account. The word *Reichstag* is often still applied indiscriminately to diets throughout the fourteenth and fifteenth centuries, reinforcing the teleology of imperial reform and occluding the essential similarity between imperial assemblies and other *Tage*.⁶¹

In convening specialized *Tage* for arbitration and consultation, the members of the Empire co-opted a practice that is discernible in the most durable Upper German leagues. The *Rittertage* of the Society of St George's Shield, the *Bundestage* of the Swabian League, the *Tagsatzungen* of the Swiss Confederates, and the *Tage* of the allied cities in Alsace all functioned as sites for the para-judicial mediation of disputes and the discussion of collective measures for defence and external relations.⁶² The *Reichstage* retained their role as occasions for the arbitration of conflicts between imperially immediate authorities into the early sixteenth century, most notably in the case of the peace negotiations at the diet of Cologne in 1505 following the war of succession over Bavaria-Landshut.⁶³ At the same time, the *Reichstage* were increasingly conceived as fora for discussing and making decisions about collective peace-keeping and adjudication. The 1495 ordinance concerning *Handhabung Friedens und Rechts* attempted to systematize the *Reichstage* by ordering yearly assemblies of at least a month's duration to discuss 'the necessities of the Empire' and 'to consult and provide oversight so as to serve the management of peace, justice, and the common good'.⁶⁴ This was not achieved in practice, and the diets remained ad hoc products of the machinations of the monarch and the estates, particularly the electors. Nevertheless, their frequency in this period—with multiple diets in some years more than compensating for years without any—attests to a broadly based concern in the German lands for the affairs facing the imperial community. Accordingly, and in true associative fashion, the *Reichstage* consistently produced *Abschiede* which claimed that, even where no decisions were reached, peace and justice in the Empire were 'suitably negotiated and subjected to consultation'.⁶⁵

As contact between the imperial estates intensified in the late fifteenth century, it became clear that the diets alone could not meet the demand for high-level consultation or adjudication of the magnitude that some Upper German authorities, particularly the electors, were coming to expect. The more ambitious and reformist voices in the imperial

⁶¹ E.g. Boockmann and Dormeier, *Reichsreform*, pp. 37, 67; Heinemeyer, *Zwischen Reich und Region*, p. 449.

⁶² See Chapter 6, p. 133; Würgler, *Tagsatzung*; for the *Bundestage*, see e.g. UGSB, ii, 9–10, 14–16, 19–21.

⁶³ *RTAMR*, viii, 532–624.

⁶⁴ *Ibid.*, v, 453–4.

⁶⁵ *RA*, ii, 171 (1518 *Abschied*).

community, notably the archbishops of Mainz, Berthold von Henneberg (1484–1504) and Jakob von Liebenstein (1504–8), clearly sought to supplement the *Reichstage* with a more permanent parallel institution with a similar remit.⁶⁶ The first proposal of this kind was submitted by Berthold and his supporters at Worms in April 1495. Their suggestion was that a ‘general council’ or ‘imperial council’ (‘gemainer rate’, ‘des Reychs rat’) should be created in Frankfurt to discuss and make day-to-day decisions about the management and implementation of peace and justice.⁶⁷ In many respects, the *Reichsrat* envisioned in 1495 resembled a permanent version of the temporary consultative councils stipulated in many late medieval league treaties to discuss pressing matters of collective defence or arbitration.⁶⁸ These coordinating bodies within associations were supposed to be staffed by representatives from the various league members, and the *Reichsrat* was similarly intended to consist of ‘17 honest and wise persons from within the Holy Roman Empire of the German Nation’, selected proportionately from its regions and socio-political estates, and including one ‘president’ of princely status.⁶⁹ The council was meant to take on a prominent arbitrational role, specified in the same customary terms employed in association treaties: ‘Should it occur that any disputes arise between notable members of the Empire, the [council members] should arrange “gutlich tage” for the parties and undertake to negotiate justly or offer suitable arbitration.’⁷⁰ Like the ad hoc committees within leagues, the council was to decide by majority whether and where to allocate troops and funds, supplied by the Empire’s members and led by designated captains, for defence and peace-enforcement.⁷¹

Maximilian’s initial resistance to this projected body, which was assigned many of the monarch’s powers and prerogatives, prevented its formation in 1495. However, at the diet of Augsburg in 1500 he was forced to approve the creation of a ‘Reichs-Regiment’ (a name that made its governing functions even more explicit) tasked with ‘negotiating and coming to decisions’ on behalf of the Empire, on similar terms to those proposed for the *Reichsrat* in 1495.⁷² The representative and multilateral character of the *Reichsregiment* was reinforced by the specification of six circles from which six of its twenty members, who were to be either knights or university-trained lawyers, would be drawn. Of the remaining fourteen seats, two were granted to representatives of Maximilian and his son Archduke Philip (‘the Fair’), six to those of the electors, four to the

⁶⁶ Wiesflecker, *Maximilian*, ii, 224–48, 396–403; *RTAMR*, ix, 71–2; Brady, ‘Imperial Reform’.

⁶⁷ *RTAMR*, v, 1517.

⁶⁸ See e.g. Chapter 6, p. 133.

⁶⁹ *RTAMR*, v, 336.

⁷⁰ *Ibid.*, v, 344.

⁷¹ *Ibid.*

⁷² *RA*, ii, 57, 82.

appointees of the temporal and spiritual princes, the prelates, and the counts, and two to a rotating constituency of free and imperial cities.⁷³ The *Reichsregiment* was to be installed in Nuremberg with its own chancery and treasury, initially for six years, and its members swore oaths to represent the collective interests of the imperial community and to avoid corruption and bribery.⁷⁴ Furthermore, they were obliged to arrange assemblies to consult with the estates in times of grave danger such as wars against external powers, while the electors were supposed to meet with the *Regiment* on all Ember Days (*Fronfasten*).⁷⁵

The *Regiment* was only able to operate for two years before a lack of funds and Maximilian's uncooperativeness forced its dissolution.⁷⁶ Confident in their right to play a central consultative and adjudicatory role within the imperial community, the six German electors fell back on another associative measure to preserve their position in 1502: a 'friendly, brotherly alliance' sworn into being at Gelnhausen for the sake of 'the honour, benefit, and unity of the Holy Empire'.⁷⁷ The death of Berthold von Henneberg in 1504 and Maximilian's ascendancy in Upper Germany following the Bavarian conflict neutralized the potential of this alliance to galvanize serious opposition to the king of the Romans. However, the principle of sustained negotiation about defence and adjudication within a representative body at the heart of the imperial community was deeply rooted. At the diet of 1505 Maximilian tried to persuade the estates to accept a re-established *Regiment* under greater royal oversight. Even this less autonomous entity was conceived 'to negotiate all matters touching upon peace and justice and the implementation and management of both of them'.⁷⁸

In practice, the *Reichstage* remained the primary fora for this purpose in this period, but the lure of a more permanent council charged with these associative responsibilities proved durable, especially among the electors. In the treaty that Charles V signed with them in 1519 in return for his election as king of the Romans (the so-called *Wahlkapitulation*), he agreed to reinstate an imperial governing council.⁷⁹ The terms of the re-establishment of 'des heiligen reichs rathe und regiment' were negotiated at Worms in 1521.⁸⁰ The estates' proposal amounted to a resurrection of the council of 1500: a body with the authority to adjudicate between imperial elites and launch defensive and peace-enforcing initiatives with the assistance of all members of the imperial community, as per the majority decision of a circle of twenty councillors drawn from the estates and circles

⁷³ Ibid., ii, 57–8.⁷⁴ Ibid., ii, 59.⁷⁵ Ibid., ii, 57.⁷⁶ Wiesflecker, *Maximilian*, iii, 1–15.⁷⁷ *Reichs-Tags-Staat*, ed. Müller, p. 248.⁷⁸ *RTAMR*, viii, 479.⁷⁹ *RTAJR*, i, 866.⁸⁰ Ibid., ii, 176.

of the Empire.⁸¹ Charles V argued for terms which gave him much greater control of the *Reichsregiment*, and limited the input of its representative members. In his vision of a 'Regimen caesaris in imperio', decision-making was to be coordinated by a 'regent' ('statthalter') answerable to him alone, and the composition of the council was to be weighted much more heavily towards loyal appointees from his Austrian and Burgundian lands.⁸² The resulting compromise retained most elements of the 1500 imperial council, but added two additional appointees for Charles (for a total of twenty-two councillors) and granted the regency of the body to his brother Ferdinand.⁸³ By the mid-1520s tensions between Charles V's priorities and those of some of the estates had neutered this second *Reichsregiment*.⁸⁴ Nevertheless, the persistence of the project for a permanent council charged with discussing and managing defence and adjudication on behalf of the imperial community is significant. Even in the face of divergent agendas, the estates retained an instinctive preference for multilateral and representative bodies as sites of negotiation and decision-making throughout this period.

Another layer of adjudication was ordained in 1495, with greater success: the cameral court (*königliches* or *kaiserliches Kammergericht*, later known as the *Reichskammergericht*). This was not a new judicial body. Throughout the fifteenth century the kings and emperors of the Romans had maintained a royal cameral court, and Frederick III's administration in particular encouraged litigants in *reichsunmittelbar* authorities to appeal to it.⁸⁵ However, from the 1480s onwards the estates sought continuously to institutionalize and collectivize the cameral court, such that it was administered with and by representatives of the entire community of imperial elites, and on behalf of their subjects, and was no longer solely 'royal' in character. The authors of the 1495 legislation, speaking from Maximilian's perspective, labelled it 'our and the Holy Empire's chamber court', and the estates would propose revisions of its structures and procedures at virtually every diet held between the late 1490s and early 1520s.⁸⁶ As with the arbitrational panels stipulated in association treaties, this judicial body was organized by the estates themselves to channel their disputes, and was intended to play a central adjudicatory role within the imperial community. Its emergence can be interpreted as a recognition that the Empire as a whole, in requiring a multilaterally constituted judicial committee, functioned like a large association. Building on a

⁸¹ *Ibid.*, ii, 176–85.

⁸² *Ibid.*, ii, 192–204, 221–2.

⁸³ *Ibid.*, ii, 223–33.

⁸⁴ Whaley, *Empire*, i, 179.

⁸⁵ Battenberg, 'Kammergerichtsbarkeit'; Diestelkamp, *Königsgerichtsbarkeit*.

⁸⁶ *RTAMR*, v, 384. See e.g. *RA*, ii, 67–72, 134, 166–9, 171; *RTAMR*, vi, 310–23; *ibid.*, viii, 485–6, 490–9; *ibid.*, ix, 358–62, 1338–44; *RTAJR*, ii, 235–40.

proposal at the 1486 diet, the estates at Worms in 1495 proposed that the cameral court consist of a prince acting as high judge ('richter') and sixteen associate judges or arbitrators ('urteilern', later known as 'beysitzer') 'to be elected from within the Empire of the German Nation', with an even division between university-educated lawyers and men of at least knightly status.⁸⁷ The list of suggested personnel drawn up at the diet included retainers and councillors from the Empire's most influential authorities: the electors, various spiritual and temporal princes, the more powerful counts, and large imperial cities like Nuremberg.⁸⁸ As was customary in negotiatory and para-judicial contexts, especially within associations, the cameral court's verdicts were to be reached by majority decision, and in conformity with 'the Empire's common or customary law' ('nach des Reichs gemeinem rechten').⁸⁹ Notionally, the court was available to any category of litigant, although its minimal funding required its users—and especially appellants—to pay hefty fees.⁹⁰

Like the courts organized within associations, the *Kammergericht* was justified as an adjudicatory means of upholding the peace-keeping mission of the Empire. Borrowing from fifteenth-century alliance treaties that sought to channel disagreements through agreed fora, the *Landfriede*-ordinance of 1495 singled out the cameral court as the designated pathway of conflict resolution within the imperial community: 'whoever enters into a dispute with another, he should seek and carry this out in the authorities and courts which have been negotiated now and henceforth for the arbitration of such matters in the ordinance of the "camergericht"'.⁹¹ In other words, the estates' intention was to make the *Kammergericht* the final and overarching source of adjudication in the Empire's complex judicial and arbitrational landscape—a role shared with the *Regiment* during its brief phases of operation in the 1500s and 1520s.⁹² In an attempt to give it some authority, the court was granted the power to impose fines on peace-breakers and non-appearers, and to escalate this punishment to placement under the imperial ban. It was also promised the assistance of appointed commissioners ('commissarien') to investigate cases.⁹³ Peace-breakers condemned by the court became fair targets for the military measures mandated by the *Landfriede*. In this way, the synergistic relationship between collective peace-keeping and collective adjudication envisioned by the cameral court ordinance of 1495 drew on the long-standing traditions and expectations of the Empire's members.

⁸⁷ *RTAMR*, v, 384. See also *ibid.*, i, 349–65; *RA*, ii, 33.

⁸⁸ *RTAMR*, v, 438–43.

⁸⁹ *Ibid.*, v, 384, 388.

⁹⁰ *Ibid.*, v, 429–31.

⁹¹ *Ibid.*, v, 363. See Chapter 6, p. 135.

⁹² E.g. *RTAJR*, ii, 322–3.

⁹³ *RTAMR*, v, 404–14.

The realization of this relationship was not always successful in practice, however. Although the court soon found clients, and underwent several proposed modifications at the diets of Lindau, Worms, and Freiburg (1496–8), it had effectively ceased operating by 1507.⁹⁴ As the *Abschied* of the diet of that year complained, ‘the cameral court . . . has stood idle for some time, with the consequence that our royal “landfride” has been notably violated’.⁹⁵ Even after its resuscitation for a period of six years at that diet, the problem of enforcing its verdicts and its attempts to bring peace-breakers to heel (‘execucion und vollnstreckung’) remained a constant theme at the diets, and the cameral court is best characterized as an intermittent work in progress in this period.⁹⁶

Just as the ideals underpinning the *Kammergericht* reflected the customary linkage of assistance and adjudication, so its procedures were rooted in the Upper German traditions of ad hoc and highly negotiated para-judicial management of disputes. This may appear surprising at first, given that the cameral court is emblematic of the supposed transition to ‘learned’ and codified Roman law in German legal historiography.⁹⁷ It is certainly true that a discursive veneer of ‘Romanization’ is apparent in the terminology employed in the court’s ordinances. The envoys and representatives of litigants were not only called ‘botten’ or ‘redner’, as in customary arbitrational proceedings, but sometimes also, following the conventions of civil law, ‘advocaten’ (for the defence) and ‘procuratores’ (for the prosecution).⁹⁸ Some ordinances explicitly referenced their borrowing of nomenclatures and procedures from civil law by emphasizing that a particular element was modelled on the ‘Roman style’ (‘Stylus zu Rom’); thus, a summons (*Ladung*) became a ‘citation’, and an appeal (*Aufruf*) became an ‘appellation’.⁹⁹ Given that half of the court’s personnel consisted of university-trained civil lawyers, the infiltration of Romanizing terminology and procedure is not surprising, but these had to contend with other ideas of how justice should work, articulated in the ordinance of 1495 as the ‘common or customary law’ according to which the court was supposed to function. At the 1521 diet, an anonymous jurist drafted a wholesale revision of the cameral court’s procedures based directly on Roman law, but these proposals were dramatically watered down, and met with significant opposition, particularly among the middling and lesser nobility, which saw them as an assault on the customary right to arbitration by a panel of peers.¹⁰⁰ Romanist agendas had to co-exist

⁹⁴ Ibid., vi, 345–6, 727–32.

⁹⁵ Ibid., ix, 526.

⁹⁶ Ibid., ix, 358.

⁹⁷ Historiographical overview in Jahns, *Reichskammergericht*, pp. 61–7.

⁹⁸ E.g. *RTAMR*, vi, 318; *RA*, ii, 69.

⁹⁹ *RA*, ii, 125.

¹⁰⁰ *RTAJR*, ii, 236–66.

and compromise with the expectations of most of the imperial elites about traditional forms of justice and adjudication. Mediation through multiple parties, forming a representative court for the whole community of elites, was central to these expectations. Throughout this period the ordinances for the cameral court were careful to specify that the 'beysitzer' should be drawn from the Empire's various socio-political estates and (from 1500) circles, as were the 'assessoren' appointed from 1507 onwards to ensure the court's objectivity and integrity.¹⁰¹ The realities of how people behaved in the cameral court also seem to have resembled the informal proceedings at arbitrational *Tage* much more than the Romanizing stipulations of the ordinances might suggest. At Regensburg in 1507 the estates had to remind the court's personnel that 'every "procurator" should avoid insults or mocking words, or other unofficial or unprofitable talk in the court or its chancery'.¹⁰² In 1517 a committee charged with rectifying the cameral court's ongoing difficulties with reaching and implementing decisions complained that some of its personnel spent far too long talking during its sessions, and that they favoured verbal exchanges over the negotiations 'in scriptis' required by the court's ordinances.¹⁰³ Looking backwards from the period after 1555, when the Holy Roman Empire was finally endowed with a permanent and financially viable *Reichskammergericht*,¹⁰⁴ it is easy to read the cameral court reforms simplistically as an innovative shift towards centralization and institutionalization. However, from the perspective of the fourteenth- and fifteenth-century adjudicatory culture of Upper Germany, characterized by multilateral and informal negotiation, often within associative frameworks, it is clear that the cameral court was shaped by long-standing judicial norms and practices, deployed at the level of the entire imperial community.

THE TRIUMPH OF MULTILATERALISM: THE EMPIRE AS A CONTRACTUAL COMMUNITY

This chapter has aimed to demonstrate that the estates present at the diets between 1486 and 1521 understood their reforms as applications at the imperial level of peace- and justice-enforcing principles of mutual assistance and adjudication which had long underpinned associations in the Upper German localities. This similarity in conventions and ideologies was mirrored by parallels between how associations and the Holy Roman Empire of the German Nation in its entirety were conceptualized. Just as

¹⁰¹ *RA*, ii, 58; *RTAMR*, ix, 376–8, 426–31.

¹⁰² *RA*, ii, 120.

¹⁰³ *Ibid.*, ii, 166.

¹⁰⁴ Jahns, *Reichskammergericht*, pp. 46–7.

league and alliance treaties began with lists of participants, so the Empire as a whole was understood as a community of elite 'members' or 'estates': those enumerated at the start of imperial ordinances as 'each and every of our and the Holy Empire's electors and princes, spiritual and temporal, prelates, counts, free lords, knights, retainers, captains, "schultheissen", mayors, judges, councillors, citizens, and communes'.¹⁰⁵ It is true that the king or emperor of the Romans, by virtue of his office, theoretically stood above this community as one of the sources of its members' legitimacy, as suggested by the formula 'our and the Holy Empire's'. This is the basis of Peter Moraw's view of the 'imperial constitution' as a dualistic entity, clearly divided between *Kaiser* and *Reich* by the late fifteenth century.¹⁰⁶ Yet, as implied by the enumerative definition of the *Reich* furnished in imperial ordinances, the Empire was not a singular or monolithic counterpoint to the monarch, but was in itself a finely granulated and multi-lateral body, consisting of actors and entities that could be listed and categorized. The Empire was, in other words, a macrocosm of the many leagues and alliances within it, just as, conversely, the members of these regional associations understood them to be local vehicles for a pan-imperial identity and mission. Further complicating any neat dualism was the contemporary perception that Maximilian, in his capacity as a German prince, was also a member of the 'horizontal' imperial community, even as he presided over it 'vertically' as its king and later emperor. Maximilian's own envoys made this point unambiguously in 1498 when persuading the estates at Freiburg that he, too, had a direct stake in policies affecting them: 'But his royal majesty is present here in two guises, as Roman king and the head of all of you, and also as archduke of Austria and Burgundy, a member of the Empire, and by no means the least of them'.¹⁰⁷

Well into the sixteenth century, the framework within which this multilateral and elite-communitarian understanding of the Empire found concrete expression was the jointly sealed treaty—that favoured basis for so many formal transactions and relationships in Upper Germany, particularly for the purpose of forming associations.¹⁰⁸ Although the agreements and decrees issued at the diets of 1486–1521 were often called 'ordinances' (*Ordnungen*) by contemporaries, they were not pieces of legislation in the modern sense—despite the tendency in the historiography to describe them as 'reformist laws' (*Reformgesetze*).¹⁰⁹ Rather, they took the form of treaties or contracts. This is clear from the concluding

¹⁰⁵ *RTAJR*, ii, 317.

¹⁰⁶ Moraw, *Verfassung*, pp. 416–21.

¹⁰⁷ *RTAMR*, vi, 626.

¹⁰⁸ See Chapter 1, pp. 27–9.

¹⁰⁹ E.g. Stollberg-Rilinger, *Reich*, p. 42.

formulae that appeared in the ordinances and *Abschiede* of this period: the monarch and estates affirmed that they had 'contracted, unified, and obligated' (with) one another to uphold the stipulations of the document in question, and all those present were listed as parties to the agreement.¹¹⁰ Generally, several seals were affixed by prominent electors, spiritual and temporal princes, counts, and cities on behalf of the entire imperial community, giving these ordinances the appearance of association treaties. Indeed, the estates themselves were highly conscious of the treaty-like nature of the reformist ordinances. The authors of the 1500 renewal of the *Landfriede* declared 'that we have unified, agreed, obligated, and committed with one another, in the manner of a contract ["in Contracts-Weiß"]', concerning the following ordinance, rules, and articles'.¹¹¹ The renewal of the *Reichsregiment* in 1521 was described as a 'treaty, contract, and obligation'.¹¹² Two years earlier, the electoral capitulation of Charles V had taken the form of a treaty with 'the German Nation, the Holy Roman Empire, and the electors, as the foremost members of the same'.¹¹³ Charles affirmed 'that we have unified, contracted, and promised to uphold with the same [electors] these following articles in the manner of a covenant and pact'.¹¹⁴

If we take the discourses and formats which communicated and structured the 'reformist' initiatives of this period seriously, it becomes apparent that they were anchored in the long-standing political culture of the Upper German lands, characterized by its emphasis on multilateral activity enshrined in treaties. Undoubtedly, the decades around 1500 saw a certain institutionalization of the imperial elites' growing contact with one another, and this represented a genuine change in the Holy Roman Empire's internal dynamic. The basis on which this iterative institutionalization took place, however, was a customary and coherent set of shared values and norms: the promotion of a particular understanding of peace and justice within horizontally organized strata of governing elites through collective obligations of a military, financial, and judicial nature. In turn, the Empire itself, and particularly the core 'German Nation' within it, came to be conceptualized as one large association of elite members, whose relations to one another were structured within the same kind of treaties that also framed many of their regional and local interactions.

This was not inevitable; it is possible to imagine alternative political configurations and pathways. In the absence of the pressures that led Maximilian and the estates to meet almost constantly from the 1480s onwards, they might not have created even the very protean imperial

¹¹⁰ *RA*, ii, 137; *RTAMR*, xi, 529.¹¹¹ *RA*, ii, 64.¹¹² *RTAJR*, ii, 233.¹¹³ *Ibid.*, i, 867.¹¹⁴ *Ibid.*, i, 865.

institutions that emerged in this period. The Empire would then have retained the characteristics it displayed during long phases of the thirteenth, fourteenth, and early fifteenth centuries: extreme decentralization into localized networks, with only occasional trans-regional contact between a minority of princes and cities at ad hoc assemblies, arranged mostly at the behest of peripatetic and over-extended monarchs. Equally, the early modern Empire might have experienced a much more complete consolidation towards state-like institutions similar to those in western European kingdoms, had its late medieval monarchy been more centrally located within the German lands, and more capable of and committed to channelling the imperial elites' interactions through a concentrated assemblage of courtly institutions. As it was, the most realistic trajectories available to an imperial community in search of common institutions were necessarily determined by its deeply rooted and durable culture of loose collective activity within multilateral structures. Some of these features of the Upper German political landscape endured for the final three centuries of the Holy Roman Empire's existence.¹¹⁵

¹¹⁵ See, for instance, on pathways of multilateral adjudication in the early modern centuries, Auer and Cordes, *Inner- und außergerichtliche Alternativen*.

Conclusion

TOWARDS AN ASSOCIATIVE CONCEPTION OF THE HOLY ROMAN EMPIRE

As I read in a chronicle
How praiseworthy endowed the German tongue is,
Its foundations and its origins
I want to relate, if I can.
I begin with the electors,
Of whom there are seven, that I know of . . .
[They] elect one who should be crowned
For whom is thereby done a great favour:
Namely a king of the Roman crown,
We should justly hold to him
With all our obedience.
His name is 'forever august';
But he ought to be of German tongue
Unless the election has gone horribly wrong.
He should be strict, just, and pious,
Providing equal protection without deception
And bringing peace to Christendom.
In this his members should provide him with assistance,
Those [members] who are answerable to the Empire,
Those that are convincing [in performing this task] are famous,
And upon them rest the Empire's foundations.¹

This extract from the 'Lyric Poem about the Roman Empire' was composed in 1422 by an unknown author, possibly a herald involved in the Hussite

¹ 'Als ich in eyner Cronick laß, / Wie lublich begabt sie teutsche zunge, / Der grunt vnd der vrsprunge / Will ich ertzelen, ob ich kann. / Myt denn kurfursten heb ich ann, / Der siebend sindt, die ich kenne. / . . . Welenn ein den man kronen soll, / Wer inn darzu tut geuallen wol: / Das heyst ein kunig der Romisch kronn, / Den sollen wir pillich halten schonn / Mit aller vnnser gehorsame. / Altzeit Augustus ist sein name; / Doch das er sey teutscher zungen, / Sust menigklich ist der wal verdrungen. / Er soll sein streng, gerecht vnd frum, / an geuerde gleicher schirmung, / Vnd setzen die cristenheyt in frydt. / Des sullenn ym geholfenn sein seyne gleder, / Die dem reich do sind gewant, / Die myr ertzeygent sindt bekant, / Darauff des reichs grund ist gesetzet'. 'Spruch', ed. Henrici, p. 73.

Wars. It is one of the few known attempts to express what the Holy Roman Empire was and how it functioned in the later middle ages, outside of law-books and political treatises. It is notable that this vernacular work mentions not only the monarch and the electors, but also all the ‘members’ (‘glieder’) of the Empire. The role of these last is presented in the customary language of associative political culture—they must provide ‘assistance’ (‘geholfen sein’) in securing peace, and they are ‘answerable to’ or ‘associated with’ the Empire (‘dem reich . . . gewant’), phrasing which recalls the formula ‘[to] all those associated with us’ (‘allen zu unns gewannten’) used in some alliance treaties.² This work also insistently identifies a ‘German’ component in its understanding of what the Empire was. This ‘German’ element of imperial self-understanding would increase in pervasiveness and intensity in the ensuing decades, as we have seen. More interestingly still, in the verses following the excerpt above, this poem makes the first known written reference to the *Quaternion*, the symbolic representation of the Empire in the form of the king and four examples of each of these powers: dukes, counts, margraves, landgraves, burgraves, knights (or ‘free lords’), imperial cities, ‘villages’, and ‘farmers’ (the latter two categories usually being represented by what were in fact free or imperial cities, like Ulm, Cologne, and Constance).³ The first visual depiction of the *Quaternion* was a fresco on the walls of the city hall of Frankfurt, thought to have been commissioned by Sigismund during his stay there in 1414.⁴ By the early sixteenth century this symbolic image of the Empire as a representative sample of its ‘members’ had become commonplace, a widely circulated example being the woodcut *Quaternion* in Hartmann Schedel’s ‘Nuremberg World Chronicle’, printed in 1493 (Figure 12). Clearly, by the fifteenth century some inhabitants of the Empire were searching for both verbal and visual vocabularies to articulate the complex structure and configuration of the sprawling polity in which they found themselves.⁵

There is no denying that it is very difficult for us, burdened as we are by the dominant political concepts of recent centuries (the ‘state’, the ‘constitution’, and so on), to make sense of the later medieval and early modern Holy Roman Empire as it was imagined by contemporaries in metaphors like the *Quaternion* and as we detect it in the abundant but bewildering primary sources. Already in 1667 the jurist Samuel von Pufendorf asserted in his polemic ‘Concerning the Constitution of the German Empire’ that ‘there remains no alternative but to name Germany,

² See e.g. GLA 36/2377–8, quoted in Chapter 7, p. 154.

³ ‘Spruch’, ed. Henrici, pp. 74–5.

⁴ Schubert, ‘Quaternionen’, pp. 1–63.

⁵ On visual representations see Cohn, ‘Electors’, pp. 295–318; Scales, ‘Illuminated Reich’, pp. 73–92.



Figure 12. The *Quaternion*, as depicted in a woodcut in Hartmann Schedel's 'Nuremberg World Chronicle'. Hartmann Schedel, *Buch der croniken und geschichten mit figuren und pildnussen von anbeginn der welt bis auf unnserer Zeit* (Nuremberg, 1493), p. CLXXXIII. Image from Wikimedia Commons under a Public Domain license

if one wants to classify it according to the rules of politics, as an irregular and almost monstrous state-entity, which has over time, through the sluggish indulgence of the emperors, the ambition of the princes, and the restlessness of the priests, arisen from what was once a monarchy'.⁶ As we saw in the Introduction, the gap between the historical evidence and modern notions of what the structure and development of political entities ought to be has resulted in a fraught and negative historiography of the Empire, and particularly of its later medieval history. In recent decades this gap has yielded 'territorial' and 'constitutional' interpretations predicated on teleologies of state formation and an ongoing, if now only implicit, acceptance of the *Sonderweg* narrative of German history.⁷

This book has tried as far as possible to avoid reading the Empire and its components into the distorting categories of the 'state' and the 'constitution', and instead to build a model from the patterns evident in the sources

⁶ Pufendorf, *Verfassung*, p. 106.

⁷ See Introduction, pp. 6–8.

and the imaginary and social frameworks within which these patterns gained meaning. The result is a rather different and more coherent picture, which chimes with the conceptual vision of the *Quaternionen*. We have seen that the Empire was understood as a community of varied elite 'members', who ranged from princes and prelates to knights and patri-cians. This is not to say that all these 'members' were considered equal; several hierarchies—of nobility, of feudal status, and of honour—notionally cut across the horizontal grouping of imperially immediate authorities.⁸ Furthermore, some groups are conspicuously absent from sources pertaining to associative and imperial activity. The monarchs and princes, prelates, nobles, and cities do not appear to have viewed unfree or very low-status individuals and communities—those who might be referred to as *Untertanen* or *Hintersassen* in the sources—as legitimate participants in the kinds of politics described in this book, particularly at the level of trans-regional leagues and imperial diets.⁹ Nevertheless, we have seen that an unusually extensive spectrum of political actors could claim to be involved in the broadly based imperial politics of the fourteenth to sixteenth centuries. The language of imperial 'membership' and 'estatehood' that developed in the latter half of this period embraced even those at the weakest end of this 'elite' spectrum, such as the minor noble lords of Geroldseck and the diminutive free city of Isny in the Allgäu.¹⁰ Despite the general fragmentation of the Upper German lands, the entire range of autonomous elites shared in a mutually intelligible array of values and practices, and this commonality was both a driver and a consequence of their myriad interconnections and co-dependencies. In the southern Empire, at least, political life was constituted in large part by quasi-horizontal ('associative') interactions between these entangled actors, formalized and regulated through contractual relationships. When they took the form of the archetypal league or alliance, these relationships were understood as one of the most fundamental and legitimate formats for political activity. This is clear from the way in which formal associations regulated feuding and arbitration, two vital and unavoidable methods of interaction between elites in this period. It is also clear from the ideological veneer imposed upon alliance- and league-making, which presented these formations as instruments for furthering the peace-keeping and common weal-upholding mission of the Holy Roman Empire.

⁸ See Introduction, pp. 13–14; Chapter 3, pp. 63–4.

⁹ 'Hintersasse', in *Deutsches Wörterbuch*, x, 1514–15; 'Unterthan', in *ibid.*, xxiv, 1864–73.

¹⁰ See the *Matrikel* of 1521 in *RTAJR*, ii, 433, 441.

Thus, just as associations emanated from the Empire's underlying structures, so they also shaped its political culture. On one level they bridged the gap between the Empire's intermittent 'central' institutions—the king or emperor and his modest administration and the diets called by monarchs or electors—and the Upper German localities. However, in light of the conception of the Empire manifested by sources like the *Quaternionen*, it seems justifiable to take this interpretation even further: the later medieval Empire was, in itself, an associative entity. The diverse community of its members was sustained by their shared participation in a trans-regional nexus of associative relationships, which is precisely why the idea of the Empire was valorized to such an extent in alliance and league treaties. *Tag*—the flexible conferences at which members of associations and other actors negotiated with and mediated between one another—functioned as nodal points at every level within this nexus, from local arbitrational meetings set up by quarrelling villagers to the *kaiserliche, gemeine*, and *Reichs-Tag* attended by representatives from a growing constituency of German-speaking authorities. To put it another way, the structures and mechanisms of power in the Empire as a whole were similar in many respects to those which shaped the Swiss Confederation. This similarity is borne out by the comparative and connective analysis of the southern regions undertaken here, and it challenges the traditional divide between 'Swiss' and 'German' history.¹¹ Long-standing customs and geopolitical realities ensured that the Empire functioned according to these dynamics, rather than conforming to the classic model of the incipient institutional state. The interplay between associative mechanisms and configurations and imperial ideologies continued until the reigns of Maximilian and Charles V. As we have seen, the 'imperial reforms' implemented under those monarchs between the 1480s and 1520s seem to have been conceived by most of the imperial estates as institutional iterations of associative practices and frameworks.¹² Indeed, research by Gabriele Haug-Moritz, among others, suggests that multilateral formations and *Tag*-based negotiations remained hallmarks of imperial politics well into the mid-sixteenth century, as new confessional solidarities found political expression within associations such as the Schmalkaldic League.¹³ The implications of associative conventions and configurations for political and religious developments in the Empire in the wake of the Reformation merit further consideration in future research.

¹¹ On Swiss historiography see Chapter 5, pp. 118–19; see also Sablonier, 'Schweizer-geschichte'.

¹² See esp. Chapter 7, pp. 155–6; Chapter 12, *passim*.

¹³ Haug-Moritz, *Schmalkaldischer Bund*.

A corollary of the findings of this book about the associative structures and dynamics which characterized the later medieval Empire is that the orthodox 'territorial' and 'constitutional' models of imperial history require some modification. It is clear that the Holy Roman Empire, when approached through the political culture of its inhabitants, can be seen as a coherent and interconnected political community, rather than as a dualistic one divided into polarized blocs. These inhabitants are best understood when they are studied collectively across social and geopolitical space, not separately as ontologically different 'estates', within bounded 'territorial states', or at segmented regional or imperial 'levels' of politics. The evidence suggests that, for all its institutional deficiencies, the Empire as a whole was the only political framework which functioned convincingly and consistently as an overarching governmental unit in German-speaking Europe. This book has argued that this framework was full of vitality in the fourteenth to sixteenth centuries, whereas the consolidation of the so-called *Territorialstaaten* has been greatly exaggerated. In this sense it agrees with the view recently expressed by Joachim Whaley that the 'territorial' narrative of German history 'distorts the reality of the Reich and underestimates the integrative potential inherent in its system... [and] also distorts the reality of the territories and overestimates the degree of concentration they had achieved by about 1500'.¹⁴ Furthermore, the inner dynamics of the imperial polity are not easily apprehended through the legal-political categories of *Verfassungsgeschichte*. The political elites of the Empire thought about and presented their world in terms of lists of title-holding powers and their multi-layered relationships to one another. These relationships were rarely arranged as mappable hierarchies or 'constitutional' schemes, but overlapped and branched in multiple directions, often in a horizontal plane. Where Gierke's intellectual successors, notably Peter Blickle, have seen horizontal and communal ties as the preserve of villages, towns, and other supposed laboratories of modern ideas of liberty and citizenship, this book has shown that such ties shaped the activity of the entire political elite in the Holy Roman Empire.¹⁵ These elites justified their authority, and the ties which underpinned it, through discourses and imagery which invoked unity, peace, and the common good within the framework of the Holy Roman Empire. Modelling the Empire as an abstract constitution with evolving institutions and built-in separation of powers only partially captures this picture. Studying its political culture uncovers these dynamics in all their richness and complexity, and allows

¹⁴ Whaley, *Germany*, i, 40.

¹⁵ See Chapter 5.

for the identification of long-term trends which had their basis in the localities as well as in the Empire's shifting centre.

THE LATER MEDIEVAL AND EARLY MODERN EMPIRE AND THE 'GENESIS OF THE MODERN STATE' IN EUROPE

It is worth reflecting briefly on the implications of associative political culture for the grand narratives and models of European political history which encompass the fourteenth, fifteenth, and early sixteenth centuries. Of course, the findings presented here, which derive primarily from Upper Rhenish and Swabian sources, cannot necessarily be generalized to other parts of Europe. Even within the Empire, it is possible that some of the more consolidated princely agglomerations in the northern and eastern areas of German-speaking Europe prevented those regions from being conditioned by what has been identified here as 'associative political culture' to the same extent as Upper Germany; this is a question that must await further research to be answered. Nevertheless, the substantial size of the zone examined here, which formed the political heartland of the Empire and the geographical centre of Latin Christendom, justifies consideration of the implications of its features for characterizations of European history in this period. Furthermore, we have seen that the Holy Roman Empire as a polity reflected—and was constituted by—many of the configurations and conventions that shaped political life in its Upper German core.

The modern European historiography of the fourteenth to sixteenth centuries is dominated by the narrative of the 'genesis of the modern state', which can encompass a chronological range as large as the eleventh to nineteenth centuries, but often centres on the 'late medieval'/'early modern' periods.¹⁶ This approach has a number of guises—diplomatic, legal-historical, macro-sociological—but it always posits the centralizing state as the prism through which all data that can be classified as pertaining to 'political history' is analysed.¹⁷ In the case of the evidence that survives from the southern Empire, this scheme is simply not convincing. Unitary governments with uncontested jurisdiction and military authority over well-defined territories did not emerge in these regions, and instead

¹⁶ A manifesto for this approach, in the context of a European Science Foundation-funded project that ran between the 1980s and 2000s, is Genet, 'La genèse', pp. 3–18.

¹⁷ See e.g. Guenée, *États*; Blockmans, *Power*; Tilly, *Coercion*.

lordship and administration in the mid-fourteenth to early sixteenth century were overlapping and multilateral processes that were handled within networks of varied political elites. Their interactions gave rise to an imperial polity that never developed a streamlined and bureaucratized hierarchy of authority emanating from an increasingly institutionalized centre. Instead, this polity was polycentric, and constituted by quasi-horizontal relationships within and between dominant socio-political groups. In the face of this evidence, it is counter-productive to agonize about the applicability of the modern concepts of the state and its genesis.

This is not to say that research into state formation is entirely unhelpful. From a long-term perspective, it is of course true that institutionalized political entities with some degree of centralization emerged all over Europe by the nineteenth century, and the search for their origins is natural. Nor is it wrong to posit political consolidation as a key feature of the later middle ages and early modernity. However, if it is to be of pan-European relevance, the standard narrative of state formation needs to be able to accommodate pathways of development apart from centralization and institutionalization, and take account of the kinds of structures and dynamics observed in this book. The Holy Roman Empire was unquestionably more interconnected and consolidated at the time of the accession of Charles V than it had been under Charles IV a century and a half earlier. However, this trajectory unfolded primarily through the vectors of customary, associative interactions, rather than through the development of centralized institutions. We need to recognize that the growth of government at multiple levels of pre-modern Europe's complex societies generated polycentrism, fragmentation, and trans-'territorial' networks at least as often as it produced centralizing administrations.¹⁸ Indeed, the configurations and activities noted in this book were far from unique to Upper Germany. Similar structures and mechanisms, expressed through feuding, arbitration, and dependence on leagues and other multilateral networks, have been detected elsewhere in this period. They have been found in Scotland, southern France, and Hungary, to name just three locations, even if historians of these regions have not always pursued the implications of this evidence to the point of adapting their political models to take account of these structures and mechanisms.¹⁹ If our macro-historical models of political change could incorporate this evidence more convincingly, we would also gain a better understanding of how different state formats emerged in later centuries. It seems very plausible, for instance, that the federal forms

¹⁸ On the 'growth of government' and its implications, see Watts, *Polities*, *passim*.

¹⁹ See e.g. Wormald, *Bonds of Manrent*; Firnhaber-Baker, *Violence*; Petrovics, 'Hungary', pp. 431–42; Moaçanin, *Town and Country*, pp. 3–14.

taken by the modern incarnations of Germany were rooted as much in its associative structures in the later medieval and early modern periods as in its subsequent division into post-Westphalian princely territories.²⁰ Only when we have found a way to articulate quasi-horizontal, network-dependent structures that preclude any unitary vision of pre-modern political processes can we hope to understand the facets of European history manifested by the continent's largest polity, the Holy Roman Empire.

²⁰ This argument about a 'federal mentality' in the pre-modern Empire is made, though with more emphasis on the role of the early modern 'larger territories', in Whaley, *Germany*, ii, 645–50 (esp. p. 650).

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AA Altes Archiv

AA 1001 (1 A. Urkunden (1239–1789))

Staatsarchiv des Kantons Basel-Stadt (Switzerland)

HA Hauptarchiv

AHA Älteres Hauptarchiv

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[Abbreviated here as HA/St-Urk]

NA Nebenarchive

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[Abbreviated here as NA/Adelsarchiv]

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[Abbreviated here as SLL/St-Urk]

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URK Urkunden der Stadt Luzern (1244–1890)

Staatsarchiv des Kantons Zürich (Switzerland)

C Urkunden (09 Jh.–20 Jh.)

C V Abgelieferte, geschenkte, gekaufte, deponierte Urkunden (1193–1924)

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